Tax Working Group
Te Awheawhe Tāke

Tax Working Group Public Submissions Information Release

Release Document

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[1] 9(2)(a) - to protect the privacy of natural persons, including deceased people;

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Where information has been withheld, a numbered reference to the applicable section of the Official Information Act has been made, as listed above. For example, a [1] appearing where information has been withheld in a release document refers to section 9(2)(a).

In preparing this Information Release, the Treasury has considered the public interest considerations in section 9(1) of the Official Information Act.

Submission to New Zealand Tax System Review

from Rik Deaton [1]

We are an Australian family of five who are now fortunate enough to reside full time in New Zealand. My wife Juliet and I purchased a 115 hectare farm in the Wanaka area in 1991 and have been regular visitors ever since. Along with our three sons, we took up full time residency in February 2015.

We have an utterly extraordinary taxation story to tell

It is the story of a family that became the victims of a taxation system run amok and a bureaucracy that has no trace of humanity or rationality left to it - the Australian tax system.

My personal tax loss for the 2008/09 tax year in Australia was AU$15,500,000.00 - we were financially destroyed by a combination of the Australian taxation system and the Australian Resource Consent industry. This destruction was wrought entirely by the nature of those systems and was centred around a particular division of Australian taxation … Property Value Based Taxation. The full story is outlined below and entails a litany of wrongs done to a contributing Australian family that was so egregious and so targeted that the reader may have trouble believing it actually happened. I can verify every word of it if asked and would be happy to do so if it helped avoid having the same level of taxation stupidity, inequity and iniquity visited upon the people of this wonderful country.

It all started in 1997 when my late mother, battling bowel cancer and dealing with chemotherapy, was watching TV news one evening when the NSW State Treasurer for the Carr government (Michael Egan) announced a new tax in his budget speech. In addition to $25,000 a year in local council rates (yes, that is how much we were paying in rates in the late 1990's), our very valuable family home of half a century at Sydney's famous Palm Beach was suddenly to become subject to Land Tax. A few weeks later the assessment duly arrived in the mail, $27,000 in year one and rising to $40,000 by year three. This was money we simply didn't have. Income we just didn't make, and the introduction of this heinous tax was the beginning of twelve years of hell for our family that culminated in the loss of almost all that three generations had earned and accumulated as they helped build Australia.

We were subjected to direct targeted victimisation by so many of the organs of Australian society, institutions that supposedly exist for the protection and service of citizens, that, as I said above, the whole story almost beggars belief. We were tyrannised by at least five different taxes that don't exist in New Zealand: Land Tax, Premium Property Tax, Stamp Duty, Capital Gains Tax and even Death Duty played a retrospective part although abolished some time earlier. New Zealand is free of these

egregiously invalid forms of taxation and it is my strongly held opinion that it must absolutely remain so.

The very worst of these classes of taxation is what I term Property Value Based Taxation (PVBT). Our family, and a tiny number of other unfortunates in New South Wales, were subjected to the most extreme form of this tax that I have ever heard of and it was this that financially destroyed us. I will end this submission with an analysis of PVBT and explain why it is the only division of our taxation system that, contrary to popular opinion, is entirely REGRESSIVE and therefore, by definition, utterly invalid as a method of raising revenue in a country that espouses fairness in taxation and strives to achieve progressive taxation outcomes. The very fact of its inherently regressive nature means it is also entirely counter productive to effective revenue generation and the rational funding of the two branches of government that must make do with it as their revenue generation mechanism - regional and local government. I will argue finally that PVBT is a broken system that should be crushed into a ball and filed circularly as the garbage that it is and the required revenue raised instead by that most rational of all taxation mechanisms, income tax. But first …

PLEASE …
TO DISCOVER JUST HOW WRONG A COUNTRY CAN GET TAXATION, YOU ABSOLUTELY MUST READ THE FOLLOWING

7 May 2013

BACKGROUND FOR BRIEF TO ADVISOR RE TAXATION POSITION AND OPTIONS FOR RIK DEATON IF RESIDENT IN NEW ZEALAND

AUSTRALIA

My full name is Rik Deaton, Australian citizen born Sydney 18/7/53. Due to an utterly extraordinary series of events I have an asset in Australia consisting of accumulated tax losses of over AU$15 million. This arose as a consequence of the collapse, at the height of the GFC in September 2008, of a redevelopment project involving an ultra high value residential property that had been my family home since 1954.

Strictly speaking, the reasons for my being in the position where this could happen are not really relevant to this advice. I feel however, that it is useful for our (my wife Juliet and I) advisor to understand our background and to know that the redevelopment that went so catastrophically wrong, and resulted in the astonishing loss I mention, was not of our choosing but was forced upon us by what passes for systems of government, taxation and law in Australia. This means that I am a very angry and bitter ex-Australian and wish to make New Zealand my home. I also wish to have my residual wealth benefit New Zealand rather than Australia. Our present finances and my limited

capacity for future employment or wealth creation however, dictate that our funds must stay invested in Australia until some are needed for development of our property in NZ, and that the tax free status I have in Australia be maintained for the foreseeable future.

I feel it is useful therefore, for me to give a brief glimpse of the events that have so blighted our lives and reduced and diminished us as people and as a family. As I have said, this redevelopment was not of our choosing. We were forced into it by a wealth tax that was put in place in NSW in the late 1990's by the socialist Labor government of Premier Bob Carr; he named his creation "Premium Property Tax". Carr is currently Foreign Minister in the Gillard government last time I looked – when I write to him I address him as "Comrade Carr" and I call his reign of terror in NSW "the 10 long years of totalitarian Carrmunism". Premium Property Tax affected a tiny proportion of very high-end homes in NSW and effectively imposed Land Tax (does not exist in NZ) on the principal place of residence (normally exempt) if those homes were above a certain value (AU$1 million Unimproved Capital Value), irrespective of the income of the homeowner.

Like all property value based taxation, this tax proceeds from the invalid assumption that a homeowner (as distinct from a property owner) always magically has an income, the only source from which one can pay taxation, commensurate with the value of their home. This is a demonstrably false assumption and leads to appalling taxation discontinuities and great distress at the personal level through the state imposed reality of "Gentrification". Other than in the instance of simple confiscation by totalitarian regimes, the Premium Property Tax imposed in NSW by the Carr government is the most extreme example of this that I am aware of. It was in place for seven years and put roughly a third of those affected, mostly elderly widows, out of their homes.

In our case, my late mother, 75 years of age and battling bowl cancer, suddenly received a new tax bill on her home – on top of all the other taxes that she and the rest of the nation were subject to, this was a new one just for her and 3,000 other lucky home owners. In her case it was AU$26,000 in year one, rose to $40,000 by year three and was in place for seven years. It was entirely revenue negative given administrative and compliance costs and was done purely so Carr could say "I'm hitting those silvertails in their Jaguars for Land Tax on their mansions" in the 1998 election campaign. This was pure vote buying, political cynicism and tall poppy scything at its despicable worst: the politics of division in all its ugliness.

My mother, a self-funded retiree with a fixed income from a single investment property and no government benefits whatsoever, attempted to increase her income by starting a B&B business in her home. Unbelievably however, because I spoke out against the government in the media during the election campaign, Carr sent the thought police after us, in the shape of the NSW Office of State Revenue, just 34 days after being returned to power. It turned out that by running a home based business where the public enters the home as part of the income generating activities, the areas of the home used by the public are no longer available for the "exclusive use of the owner occupier" and become subject to Land Tax. By this time they had renamed the new tax "Premium Property Tax" and written special legislation for it as it was originally under the auspices of the Land Tax act.

In a complete travesty of ethical and progressive taxation tradition they now put a numerical cut-off point to the homes affected. This was simply the number of homes caught in the net in year one by the initial AU$1 million Unimproved Capital Value (land value only in NSW – value of improvements not considered for taxation purposes) cut off point. That benchmark was open-ended and was now catching properties in some Labor electorates and that would never do. The new

numerical cut off was just that – a maximum number of owner occupied residences to be subject to the tax. We unfortunate 3,000 home owners got to pay forever more, but no other homes would get caught in the net, irrespective of increase in value or income of the owner. Hard to believe but it is absolutely true – the number they settled on, as if sent down to us from the gods, was "the most valuable 00.2% of Owner Occupied Residences in NSW"! That was the mystical number enshrined in the legislation.

It is difficult to imagine a more obscene parody of taxation than was embodied by Carr's Premium Property tax, except perhaps this: When he sent the OSR after my dying mother for having the temerity to operate a B&B in her home in a pathetic attempt to increase her income to try a pay a tax that raised no revenue and was only levied on 3,000 of 20,000,000 Australians, she actually unknowingly triggered another layer of Land Tax. The first million dollars of the initial entry threshold (which was retained along with the numerical one) was "tax free". It was this tax free entry threshold that they now attacked because of the fact of the public entering the home as B&B guests. They calculated exactly how many square metres of the home were used by the B&B guests verses how many square meters were available for my mother's "exclusive use" and levied Land Tax proportionately.

The income from the B&B was the trigger for this tax but not the basis for its quantification. Quantification was determined by the value of the property applied to the square metres of B&B space. The end result then of my mother spending the last three and a half years of her life changing beds, cleaning toilets and scrubbing floors for B&B guests, in between chemotherapy, radio therapy and a colostomy, is that we are pretty certain that she is the only person in any liberal western democracy who has ever had to pay greater than a 100% marginal rate of taxation on a legitimate business. Yes, believe it or not, the tax they took was greater than the income that triggered it! Yes, those evil, vicious, malignant bastards took it all and then some. And, dear reader, you'll never guess how many other B&Bs of the 3,500 operating in NSW at the time were subject to this same witch-hunt? Not a single one - just Veda Rae Deaton of 39-40 Ocean Road, Palm Beach.

Even that wasn't enough for them however, as they then decreed that one of our two properties (which were contiguous and integrated and had been treated that way for the fifty five years of our ownership) was our "home" and the other was our "holiday home" and levied a $123,000 land tax bill for that year. I ultimately fought them on that and actually won. Then they thought they should check up on us from time to time in case we were trying to "cheat the system" by offering our home for short term rentals as did all our billionaire neighbours (which would result in more Land Tax of course) so they ***raided*** us. We suddenly had be-suited "compliance officers" from the NSW OSR appear at our door, without warning or appointment, and demand to know if we were the owners and what we were doing in our home. I am not kidding – this happened twice in two years! I felt like I was living in Stalinist Russia rather than Australia.

Mum died about then (October 2000), broken hearted, knowing that her home was lost to her family, and my sister and I could not agree on a way forward with our inheritance. This resulted in having to put the home on the market and my formerly close relationship with my sister being terminated permanently. We expected a ready sale of the property and at a very high level, as it is a truly remarkable location on Australia's most beautiful beach. There are only twelve homes on the beachfront; amongst them is the Packer family's beach home. We were stunned to find however, that the property was *extremely* difficult to sell. In over three years and three major marketing

campaigns we did not receive a single serious offer. We finally had to step back and try to consider why such a majestic property was not generating the excitement it should have. We finally had to admit that the problem was our house and other buildings. Along with privacy issues and the poor layout of our two blocks, the buildings were simply not trendy enough for buyers at this end of the market. Any normal person seeing our beautiful (1940's rebuilt in mid 1980's but still very modern) three level home would have trouble understanding that, but buyers at this level want this month's centre-spread from Vogue living and with the right architect's name on it.

At this point we discovered that we also had dramatic Capital Gains Tax problems. If the executors of an estate manage to sell a property within two years there is no CGT. If you miss settlement by so much as a day, you do not pass go, do not collect $200, but you go directly to jail and directly to the value at the time of death (or even to the date of initial acquisition in certain circumstances) to determine a base price for CGT. We had not thought this was an issue for two reasons. Firstly, the family home is exempt from CGT. As this was our family's full time home, and as Juliet and I were living there for the last few years of mum's life, caring for her and helping with the B&B operation, it was initially thought that we were exempt on that basis. It turned out however, that this position was dramatically impacted by the fact that we had two blocks not one, that there was a tiny guest cottage on the second block on top of a garage and squash court complex, which meant that we arguably, technically, had two homes rather than one. It was also impacted by the income generating activities of the B&B, which meant that we lost our CGT exemption for those years even though the B&B income had already been confiscated in state level Land Tax.

We still did not think that mattered as we had owned the property and used it as our full time family home since 1954 – a full thirty years before CGT was enacted. Since pre-CGT assets were granted CGT free status we assumed we were safe on that basis - wrong again of course. We had not remembered the small fact of a technical change of ownership brought about much earlier by yet more taxation problems. When my late father suffered but survived a massive heart attack in 1971, in his early fifties, the property was in his name alone. Those were still the days of death duties. Knowing there was a fair chance he would have another attack and that he might not survive, he took steps to get the property out of his name and into a holding company. This meant that from that point on it was subject to Land Tax as it was no longer owned and occupied by an owner-occupier – I presume these people are very good at chess.

Tragically for our family, Dad's precautions were not in vain as he died the next year of a ruptured aneurism. The only good news being that our home was not lost to Death Duties. Some years later a NSW government actually acted properly and appropriately for once and recognised that that heinous class of taxation was morally unthinkable and utterly abhorrent to any rational person – they abolished it. We could have changed the ownership back to my mother's name at that point but for another huge Australian tax that does not exist in New Zealand … Stamp Duty on real estate purchases. This amounts to about 5-6% of the purchase price of all real estate transactions; when I bought my sister out of her half of the property in 2007 the stamp duty alone was $330,000! The amount of the stamp duty was high enough at this time (early '80's) that we opted to leave the ownership in the company and continue to pay the land tax – mistake.

In 1985 another NSW government again broke with tradition and acted correctly and morally. They recognised there were many people in our position, unfairly paying Land Tax on their family home because it was in a company name from Death Duty days. They announced a moratorium on Stamp Duty for qualifying properties throughout the whole of calendar 1985. Our property qualified fully

but our accountants did not tell us of it and we only heard about it quite by accident in late October and just managed to scrape the transfer in before the window closed on December 31. We therefore managed to transfer the property from the holding company to Mum's name and avoid state level Stamp Duty and save the state level Land Tax from then on. Was there another critical taxation event in that year of 1985? Well, yes, there was. In September, just three months ***before*** our transfer, the Federal government introduced Capital Gains Tax to Australia. So, after full time ownership and occupation by the Deaton family since 1954, our home was now deemed to be ***a post-CGT asset*** due solely to a technical transfer, wholly within the family structure, in which no money changed hands and was only necessary because of other taxation convolutions that ought never to have affected a family home. The end result of all this was that during our three years fruitlessly attempting to sell the property, we spent over $150,000 on taxation advice that finally included a brief from Senior Counsel who declared that he had never seen an instance such as ours that brought nearly every aspect of the CGT legislation into play. The realities we faced due to the madness of this CGT position entirely dictated how we had to market and attempt to sell the property lest we lose some vast proportion of its value despite the fact it should have been exempt in any of three different ways.

Anyway, on with the story. Once we realised we did not have the type and style of residences the market required, a grand redevelopment became our only option. My sister did not want to be involved and so I was forced to buy her out for AU$6 million. To do that, my wife and I had to sell everything we jointly owned: a $1.2 million harbour front home unit; a $2.5 million industrial investment property; four other home units; a substantial share portfolio, concede other family assets to my sister … and enact a multi million dollar finance facility with Westpac for project funding.

Once I realised that I had no choice but to start thinking "redevelopment", I identified a possibility for a spectacular redevelopment coup if it could be pulled off. I planned to use unpopular legislation called "SEPP (State Environmental Planning Policy) Seniors Living" to get permission to build low-density apartments on this very sensitive beachfront location. This legislation was enacted by State government in response to the housing crisis Sydney faces (expected population growth of 25% within two decades but zero undeveloped land in Sydney basin = rising population densities) and is uniformly loathed by all except those who live in them. I knew there would be a firestorm of local protest but architectural and legal advice was positive so we bought my sister out and ploughed ahead. In the same week that I paid my sister six million dollars however, the state planning Minister, Frank Sartor, waved his pen in the air one afternoon and summarily changed the status of the mapping of the SEPP governing coastal protection, SEPP 71. One day we were not included in the mapping, the next day we were. Inclusion in the mapping meant that our property was suddenly deemed to be in a "Sensitive Coastal Location" and SEPP Seniors Living was therefore no longer available to us due to its specific wording.

This meant that the entire legal basis for a $6 million real estate purchase and a proposed $20+ million property development was withdrawn by government, with absolutely no prior warning, within 48 hours of me committing to it! Nonetheless, we knew they had not meant to ban SEPP Seniors Living from the entire coast of NSW and we knew they were not aware they had done it. We sought advice from Senior Counsel as to the ramifications of the government action in respect of these two SEPP's and then I gained high access within the planning department and hit them with the bombshell of their own incompetence by giving them the QC's advice. In the words of my contact, who was third from the minister, this caused an "electric shock throughout the department".

It was inevitable that they would shortly amend the SEPP we had been relying upon initially and reopen the door for coastal development, but we knew it would not be instantaneous. It would involve actually changing legislation and that never happens quickly. We clearly needed a viable fall back plan. One was duly formulated; it consisted of redesigning the two three-level apartment buildings our architect had already prepared, into two typical Palm Beach mega-houses. Along with a boundary realignment to give us two beachfront blocks, as opposed to one behind the other as was then the case. These two houses, fully complying in every respect with the Council's planning legislation, were lodged (along with twelve different consultant's reports) with the local Council for the inevitable rejection. In the end, it took 20 months and $550,000 in architectural, consultancy and legal fees to gain victory in the NSW Land & Environment Court and it cost the rate payers of our district just under $70,000 dollars in legal fees to oppose us. Why – no idea really, it is just what they, local councils, do I guess.

In due course, with considerable impetus and lobbying from me, the NSW Department of Planning did amend SEPP Seniors Living and our ability to lodge the apartment proposal was restored. We went back to Council and lodged the identical buildings but reconfigured as apartments. Two houses, each of three residential levels (almost 900m2 each building) and an underground parking level, that were already approved by the Court, became six grand beachfront apartments. There were absolutely no additions to the size (bulk and scale) of the buildings to reconfigure them into apartments and all substantive planning and environmental issues had been dealt with comprehensively in the first court case. The only visible difference was that there was one garage door at street level instead of two; in a fair world and on a level playing field it was checkmate, we couldn't lose!

It is almost impossible to adequately describe the obscene travesty of courtroom procedure that followed for the next year and the next AU$1.5 million in costs, but one example should suffice to illustrate. Because we were using Seniors Living (over 55's as opposed to old age) legislation, one of the requirements was that the site be within 400 metres of a bus stop to provide public transport for the residents to the local shopping village of Avalon – we were just 330 metres away from the Palm Beach bus terminus where regular services existed. The next requirement was that there be a properly constituted footway available to those residents to allow them to safely reach the bus stop. Being a beachfront that is very little used most of the year, but frantically gridlocked for two months of summer, there had never been anything other than the narrow but well made road that meanders down the beach to the cul-de-sac at the southern end onto which our property fronted – no footpaths.

We initially did not see this as a problem as about three years earlier the Council had commissioned a traffic study by a firm of road safety consultants on the precise piece of road that was in question – the road from our driveway to the all important bus stop. In it the consultants said that the current uncontrolled nature of the road, with a 50kmh speed limit, was far too dangerous and Council needed to take action. They proposed turning it into a "Shared Pedestrian Zone". This is an approved road designation with performance parameters set by the NSW Roads and Traffic Authority; it carries a 10kph speed limit.

The Council then duly followed the advice of the consultants and designated Ocean Road, Palm Beach, from bus terminus to our driveway at the end of the road, to be a Shared Pedestrian Zone. The problem was that the traffic consultants had also listed eight other measures that must be taken

at the same time as the declaration of the shared pedestrian zone in order to make it ***almost*** comply with the RTA's parameters for these zones. These measures included: multiple speed bumps; moving the pay & display parking machines to new locations; three marked pedestrian crossings; colour coding of the road surface; setting up of roundabouts before the bottleneck … and footpaths on ***both*** sides of the existing road as well. Council did not do a single one of these things. They just put up the signage and ignored the advice of their own consultants, the roads & Traffic Authority's regulations, the support of residents and their duty of care to residents and visitors alike.

My legal team knew it would be coming and they said we had to have a back up plan. I had trouble believing they could possibly get away with it, that they would actually dare run it in a court of law as an argument … but they did. The shared pedestrian zone, which they had enacted completely illegally, while supposedly being safe and appropriate for all other beach users – residents, visitors, elderly people, children, disabled people, life savers, cars, motor cycles, trucks, bicycles, skateboarders – was not able to be used by the residents of our proposed development because it had not been legally enacted and therefore did not satisfy the precise wording of the SEPP that requires a safe pedestrian access to the bus stop!

We were ready for them of course. We had a plan already prepared to put one of the two footpaths (down the landward side of the road) that the traffic consultants had said must go down ***both*** sides of the road. This is something regularly ordered by judges in such cases, although usually for just a few metres. When I say a "plan" I am really not doing it justice. I presume it was some kind of a work of art as the cost for our landscape architects to prepare it was ……. $120,000 for a 330 metre crushed granite footpath bounded by timber edges!!! Needless to say, the QC representing the Council argued vociferously against the possibility of us installing this pathway at our expense. I have a vivid memory of their QC in a foaming, fulminating peak of feigned righteous indignation, grasping his lapel with one hand and shaking his other fist at the ceiling as he bellowed in his best Rumpolean voice, "not so much as a single nail in a single bollard will be countenanced by my clients to allow this footpath to be built"!

Yes, this actually happened in a Court of Law in Australia. A Queen's Counsel, the highest appointment in our legal system outside of the Judiciary, the direct pathway to the judiciary, actually stood there and argued the utter illegality of his client's actions as a defence against the legality of ours. Not only did he do it, he was allowed to get away with it by the court officer in charge, as if his insane, upside down, Daliesqe vision had validity in the real world. By this time we had stupidly said no to a very real offer to buy the property, made directly from the prospective purchaser to me, of fifteen million dollars. I try not to think of that moment too often. We had demolished our beloved home and commenced construction by doing the immense excavation and retaining wall - $2.5 million in costs to that point. This made absolute sense as, win or lose in court, we would be constructing the same buildings in the same hole as either houses or apartments. As the Court hearing progressed during mid 2008 the first stirrings of the looming financial crisis were becoming apparent but I was much too busy and absorbed in the fight to notice.

Several sales of lesser beachfront properties nearby in recent months had driven our most recent valuation, prepared under instructions from Westpac, up to the staggering figure of AU$23.5 million for the two properties – land price only. Had we pulled off the apartments we were looking at astonishing numbers. Agents valuing them for financing purposes were talking $8.5 million each but without doubt we would have achieved closer to ten. We would have kept an apartment and made $20 million after tax. Had we lost in court, we would have just built the two houses and sold

them for approaching twenty million each and still come out of it with over ten million. It was very big but the risks were known and the value was there in the property … but then our project, and the whole world, just collapsed.

I really should have known that defeat in court was inevitable despite the fact that the other side was reduced to such base tactics as those described earlier (and there were others just as outrageous) because they had no valid arguments to offer. I had been told we were going to lose some time earlier. One of our very near neighbours, a big name in the financial and equities world, with unlimited amounts of money at his disposal, told me so. He stopped me at the foot of our drive one day, poked me in the chest and said, "listen you, don't you understand that you are up against the richest and most powerful people in Australia here? We don't want this, so it's not going to happen. We don't care what it costs us to stop you; it is just pocket change to us. You should stop now while you still can". I looked the man in the face and said "listen ------, I think that when you and your deep pocketed mates find yourself in front of a Commissioner in the Land and Environment Court – and you don't have an argument – there's only so far your money and your bullshit will take you".

Needless to say, he was right and I was wrong. In Australia, money and bullshit will take you wherever you wish to go. On the 17th of September 2008, the same judge in the same courtroom of the Land & Environment Court of NSW who'd had no difficulty at all in approving our proposal for two 900m2 houses for the uber-rich, rejected the proposal to transition the identical buildings to apartments, despite there being no valid arguments or real non-compliances with the relevant legislation. His reasons? The buildings, which he himself had approved just over a year earlier, had suddenly and mysteriously become too great in "Bulk and Scale". Our rich neighbour was right, they really can get any outcome they want.

The defeat in court came in the same week that Lehman Bros. went down in the States and the world fell of the cliff. In Sydney, the first and biggest casualty was high-end real estate, especially holiday houses. With the sole exception of our home, that is what every beachfront house in Palm Beach was and is – a five weekend a year holiday house. The bank had a new valuation done (we paid of course) and 23.5 became 10.5 in the blink of an eye. We no longer had 60% coverage so they just sold us up. After such a desperate time trying to sell a few years earlier I was expecting very little interest, especially in that climate. Surprisingly there were over twenty parties the agents classified as very interested. As the financial crisis deepened however, they fell away one at a time. Ultimately only one remained. They made an initial offer of AU$13.5 but then got cold feet and backed off. Ultimately the agents earned their money and got them back at $12 million. At this point we owed Westpac the vast majority of that amount. Once that debt was satisfied we were left with the balance – and that is what we came away from those eleven years of hell with, a tiny portion of the sale price and a fifteen million dollar tax loss.

As the reader might imagine, I consider that tax loss as an asset and all that is left of three generations of my, my wife's and my family's toil and contribution to Australia and I have no intention of giving it up. Australia confiscated the rest of what we earned and owned over a long and tragic period that also deprived us of any semblance of the peace and security that citizens of countries like ours have the right to expect. We got bent over and gang raped by every single one of the organs of society that are meant to exist for our benefit and protection – Federal, State and Local government, slimy, cynical, lying, manipulative and self-serving politicians, neighbours and lawyers, the taxation system, the legal system, the financial system. It was a betrayal by our nation as appalling as paedophilia by a priest. Our whole family have suffered from it as it all took place

during the entire period of our children's childhoods. They had parents so perpetually overwhelmed by the enormity of the problems they faced that there was never a moment in the lives of our two oldest sons when we have not been under dramatic stress that we ourselves had no part in creating. I am angry, bitter, cynical and utterly mistrusting of my society and its mechanisms. I don't think they are out to get me, I ***know*** they are out to get me and I have the proof. My mother died heartbroken, my sister and I have not spoken for ten years and I am pretty much broken in mind, body and spirit to the point that I will never really recover. How my wife and I managed to have our marriage survive it is a wonder to both of us sometimes and speaks volumes for our relationship and her strength and resilience.

Damn them.

PROPERTY VALUE BASED TAXATION
THE MOST UTTERLY INVALID FORM OF TAXATION EVER INVENTED

According to a Wikipedia article: *"A land value tax is a progressive tax, in that the tax burden falls on titleholders in proportion to the value of locations, the ownership of which is highly correlated with overall wealth and income"*

I would argue that precisely the opposite is true, that any Property Value Based Tax is demonstrably *REGRESSIVE* because the supposed correlation with income, the only source from which an individual ought to be required to pay taxation, simply does not exist. By definition, the term "overall wealth" used above is entirely divorced from the other term used, income, and relates to assets already owned by an individual that represent the residual of income after income tax has been deducted. Therefore, the very first thing that is wrong with Property Value Based Taxation is that it is nothing more or less than double or multiple taxation bites of the same income.

Then we come to the transparently obvious inherent fallacy of the statement itself. Whilst it may be true to say that ownership of a high value property correlates strongly with "overall wealth", it is only true because the value of the property itself is included in the calculus of an individual's overall wealth and that property may absolutely represent the vast majority of that overall wealth. So it was in our case. It is utterly false however, to claim that ownership of a high value property correlates at all with income over the given taxation period. If it is held by a society that double or multiple taxation of income is wrong then it must be accepted that income over the current taxation period is the only valid marker of an individual's ability to pay tax and therefore the only measure against which a valid tax ought to be assessed. Once this point in the analysis is reached then the utterly invalid and fatuous rationale for the use of PVBT simply crumbles into dust.

My simplistic non-economist's analysis of a taxation system is that there are three broad classes of taxation:

1. Income tax which is inherently progressive.

2. Transactionally based taxes. Here at least there exists choice. An individual can choose not to enter into the transaction if the total cost, including the taxes attached, are too high.

3. Asset Value Based Taxation. Since the only class of asset we choose to tax is property, I call this Property Value Based Taxation. With PVBT where there is no choice. If you own the property then you must pay the tax … irrespective of ability to pay as dictated by income.

PVBT, as a class of taxation, attempts to gain legitimacy from the invalid assumption embodied in the above quote from Wikipedia. That assumption is that the current income of each and every property owner is always somehow magically commensurate with the current value of their property. In an environment where, in living memory, property values have never done anything but increase, often dramatically and rapidly, to imagine the income of each and every property owner just automatically keeps up is so fanciful, so facile, and so self-evidently wrong that it is hard to believe people still hold to such a fiction. PVBT is one of the greatest forces driving the relentless urbanisation and density increases of our towns and cities, it is the driving force behind gentrification in places such as the the Queenstown Lakes district where we live, it is one of the key causative factors in driving rents ever higher and, in its extreme expressions, it leads to utterly mad taxation discontinuities such as were visited upon our family in Australia.

In this country it is local and regional government that have their revenue generation capability hamstrung by having to use this stupidly anachronistic method of taxation to raise the funds needed for operations. This is just now being evidenced to dramatic negative effect to Queenstown Lakes District Council as they try to find methods of funding their upcoming ten year plan. This plan is a very bold and necessary step into the future and its key elements are mandated by the dramatic growth in both the resident and visitor population of this very special area.

The infrastructure and service capability of the region are already stretched beyond design capacity and the cost of the desperately needed upgrades can presently only be funded by three methods: keep on jacking up rates to local property owners in accordance with the traditional paradigm, take the district deeply into debt for generations to come or go cap in hand to national government to try and get a fair share of the national income tax take. QLDC is about to have to resort to all these imperfect methods because the simple and inherently progressive methodology of assessing tax on residents of the district according to income is denied them. Via rates increases then, they will be forced into raising the taxes of low income earners who own their own homes and thereby driving gentrification, raising the tax burden of landlords who will instantly pass it on to their tenants thereby exacerbating the desperate shortage of rental properties, raising the tax burden of struggling farmers

who are already barely viable in the region, missing out completely on taxing many residents living alternative lifestyles …whilst simultaneously letting many, many high income earning residents contribute just a tiny fraction of that which an income based metric would yield. All this is simply inherent to Property Value Based Taxation if one does even a cursory analysis.

What is not so obvious as these functions of PVBT however, is that it is also inherent to the system that as development proceeds and population densities increase from country town to city levels - especially as multi-floor apartment buildings become the norm - then Council's revenue take per residential unit falls. This effect is less pronounced in New Zealand where improvements form part of the rateable value of a property; as opposed to Australia where all PVBT is assessed on the Unimproved Capital Value of the land - i.e. land value alone. Nonetheless, as a single piece of land is redeveloped with ever higher densities and ever more floors, the land component of rateable value per unit of accommodation falls and so local government's revenue take per set of goods and services provided falls also.

Again, my Australian experience provides another graphic example of this. One of the wonderful pieces of real estate I owned that was confiscated by Australia was a harbour front apartment at Kirribilli, immediately beside the Prime Minister's Sydney residence, Kirribilli House. This was sold in 2005 for AU$1.2million. Because its land value was split between the 26 units that comprised the building, its annual PVBT (council rates) contribution was a mere $850.00. Immediately next door was a single home on a single block of land. The rates burden of this family was based on the entire value of the block of land so it would have been in the order of $20,000 … plus, there was Premium Property Tax to consider! This added something like another $40k to this family's PVBT bill each year. So here you had a system of taxation that took next door neighbours, made not the slightest attempt to consider their relative incomes, and charged one of them $850 and the other circa $60,000 for the identical government supplied set of goods and services. This is not a system of taxation; this is systematic injustice and a lapse in rational policy making that defies understanding. Needless to say, that lovely old harbour front home is long gone and was replaced by a block of apartments.

My basic premise is that ***all taxation*** ought to be based on the tax payers true ability to pay, not an assumed ability based on a false marker such as the value of one's home. If this premise is accepted then any form of Property Value Based Taxation, on the principal place of residence at least, is inherently unacceptable as it is not income linked in any way and attempts to gain its legitimacy from a demonstrably false assumption. Unless one is in favour of the forced property redistribution that inevitably results from the application of taxation so based (most especially Land Tax or Premium Property Tax – its ultimate and most inequitable expression) then one simply cannot support Property Value Based Taxation as being a valid and equitable mechanism to raise the revenue needed by any of the three tiers of our governmental system. My argument is not that the rating system should be tinkered with to make it

less outrageously inequitable than it is (and when you get some residents paying ten, fifteen or twenty times that which others pay for the identical set of goods and services without relative income being included in the calculus, it clearly ***is*** inequitable - in fact it would be illegal in any other sphere of society) my argument is that it ***ought to be scrapped entirely and the funds raised via some other mechanism!*** The mechanism I favour is that most equitable, progressive and egalitarian of revenue gathering methods – INCOME TAX!!

Property Value Based Taxation is an anachronistic remnant from medieval Europe and the days before a proper monetary economy and modern accounting methods allowed a fairly accurate picture of an individual's income and so their true ability to pay tax over any given period. In those times the Laird or Crown had little choice but to confiscate a percentage of an assumed output from a property regardless of the hardship any error might impose. Today we do have a choice and we should exercise it. Property Value Based Taxation is inherently regressive and inequitable. It is therefore unacceptable as a class of taxation in a society that espouses fairness and so should be totally scrapped. The logic is simply inescapable and the multiple benefits of doing so are obvious … now that I have pointed them out.

EPILOGUE

The reader will have seen that the section above that described our taxation travails in Australia was written as a brief to a tax advisor who we were hoping would give us some better news on our taxation position here in New Zealand once we became tax residents of this country than that which had been outlined by our accountant. We intended to ultimately bring our total assets over here and start a business based on our farm property and we are in fact currently in the throes of doing exactly that. Initially however, we had to leave our residual investments in Australia and maintain our tax free position over there. The crushing news from both accountant and advisor was that the New Zealand tax system, whilst it recognises accumulated tax losses incurred after one becomes a tax resident, it does not recognise such tax losses incurred prior to becoming a tax resident. Consequently, we had to make a decision whether to come to live permanently in New Zealand and simply write off the fifteen million dollar tax loss still extant in Australia, or whether to move back to Australia and be tax free for ever more!

We chose New Zealand. But, given that we are presently attempting to begin an agri-tourism business on our Wanaka farm that will first entail a twelve month $100k Resource Consent battle with Queenstown Lakes District Council just to get our concept approved, and then the development itself will soak up several million dollars - the entirety of our residual Australian assets … it is somewhat galling to have been paying full taxation here in New Zealand on income that is unassailably tax free to me in Australia and to then see a giant tourism operator like A.J. Hackett be handed a half million dollar government grant last year to develop some new adrenaline saturated canyon swing whilst we get to battle on alone as usual.

I have to say that it would be very, very welcome to see a government, especially my government, do something rational and appropriate in respect of taxation for a change. So please take a look at what the Australian system did to us and, for pity sake, don't do any of it to New Zealanders.

Yours faithfully … Rik Deaton, Wanaka.

P.S. Several year ago I heard the CEO of Google in the UK literally boasting on national television there that his company paid no tax in the UK at all and barely any in any other jurisdiction. "We don't write up the international tax law" he smarmed, "we just use it to our advantage". If true, this is beyond outrageous and should somehow be addressed.