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ARTICLES

Piercing the Corporate Veil to Reach the Money for Employees: Why, How and Where to Next? – *Helen Anderson*

It is arguable that it has never been more necessary to pierce the corporate veil than it is today. There appears to be a growing abuse of corporate structures to avoid payment of employee entitlements and related taxation obligations, as well as to exploit workers through a wide range of dubious employment arrangements. In response, the Australian Government has passed legislation extending liability to holding companies and responsible franchisors through amendment to the *Fair Work Act 2009* (Cth) (Fair Work Act), and other reforms to the *Corporations Act 2001* (Cth) allowing contribution orders against related companies and beyond are proposed. A draft Bill to combat illegal phoenix activity through the recovery of creditor-defeating dispositions has also been released. This article examines the reasons why selective veil piercing in relation to employment-related debts is warranted, looks at the range of piercing measures already available, and ponders where the law might take us next. 536

A Legal Identity for Mutuals – Distinguishing between Profit and Purpose – *Ann Apps*

In 2017, the Australian Government agreed to implement corporate law reforms recommended by the Hammond Review, including inserting a definition of “mutual entity” in the Corporations Act and introducing a special equity instrument allowing mutuals to access investor capital without risking demutualisation. This article considers the reasons why mutuals have lacked a distinct legal identity – and the implications of the proposed definition of a “mutual entity”. Australia’s “one size fits all” regulatory approach has not well accommodated the member-owned business model. The article distinguishes a mutual from an investor-owned company. It also argues that if mutuals are given the power to issue equity instruments to investors as a separate class of member, there should be statutory recognition and protection of the intergenerational nature of equity in a mutual fund. 552

Country-by-Country Tax Reporting: A Critical Analysis of Enhanced Regulatory Requirements for Multinational Corporations – *Adrian Sawyer and Kerrie Sadiq*

As part of the Organisation for Economic Co-operation and Development’s Base Erosion and Profit Shifting project, country-by-country reporting (CbCR) has been promoted as a mechanism to enhance transparency with respect to the operations and tax planning activities of large multinational corporations. CbCR involves the disclosure by a company, either publicly or in confidence to governments, of tax figures and, potentially, other financial data on a country-by-country basis for all jurisdictions in which it operates. In this article we adopt a cross-country comparative case study analysis, involving two jurisdictions which have implemented CbCR. This article provides a critical analysis of a

series of semi-structured interviews conducted in Australia and New Zealand with key tax professionals, along with revenue officials, with the aim of ascertaining the views of the profession and their multinational corporate clients on the new CbCR requirements. The findings not only reinforced our prior expectations based on documentary analysis that the approaches of the two jurisdictions would differ but revealed significant differences in the level of involvement of tax practitioners in preparing for CbCR for corporations, and between large- and mid-tier firms. 570

DIRECTORS' DUTIES – *Editor: Dr Rosemary Teele Langford*

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