

# *Tax Effective Writing*

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*Ladies and Gentlemen,*

1. It is a privilege to launch a book by Justice Pagone – *Tax Effective Writing*. Justice Pagone is a distinguished jurist, an accomplished academic and a friend. Since his sojourn at Cambridge he has been a prolific author as well. Indeed this book *Tax Effective Writing* looks remarkably similar to his previous book *Tax Avoidance in Australia* in form but not content, although the general anti-avoidance provision makes cameo appearances throughout this book as well.
2. Justice Pagone acknowledges the contributions, amongst others, of Justice Jennifer Davies and Professor Ann O'Connell.
3. We are told that the title of the book was chosen as a pun to emphasise the importance for tax practitioners to be effective when writing.
4. While the first chapter of the book covers general principles of effective writing the remaining chapters provide specific advice on:
  2. – Writing Opinions and Advices
  3. – Preparing Notices of Objection
  4. – Preparing Applications for Review or Appeal
  5. – Facilitating the Obtaining of Expert Opinion Evidence
  6. – Writing Submissions
  7. – Seeking Private Rulings
  8. – Preparing High Court Special Leave Applications.

The intended Reader is clearly tax practitioners but the book would be a handy reference for barristers, scholars and accountants who may not undertake all of these activities on a regular basis. It would also be useful for law and accounting students. Personally I found the chapter on obtaining Expert Opinion Evidence particularly interesting.

5. So what insights does the book provide?
  - (a) First and foremost the book places the Reader as King – in fact all but the first two chapters start with the heading 'The Reader'. *Tax Effective Writing*, we are told, achieves the author's purposes having regard to the Reader and the context (including constraints on form and context). So:
    - 'identify the reader',
    - 'keep the reader's attention',
    - 'lead the reader',
    - 'frame the issues',
    - 'frame the questions'.

All good advice.

(b) The book makes a distinction between the ‘What’ and the ‘How’, and focuses on the latter, noting that tax effective writing often needs to be ‘persuasive’. So:

- write to be understood by the reader (and possibly successive readers),
- be thoughtful about what you write,
- ‘be precise, concise, simple and clear’.

These become mantras by the end of the book.

(c) Similarly:

- note the formal requirements,
- identify and state the issue,
- stipulate the facts on which the desired decision depends,
- formulate the grounds of the objection or submission in such a way that the terms of the law and the factual considerations are interwoven, and
- make clear the link between the facts and the conclusion.

6. Apart from assisting practitioners and students – the book highlights the professional and ethical standards required in tax effective writing, for example:

- the duty to advise might exceed what’s in the retainer;
- adviser liability, risks and disclaimers are touched upon;
- as is the need to balance the duty to the client with the duty to the court.

Be accurate and truthful, the book recommends.

7. As I said, it is a privilege to launch this book. But I cannot let the author off the hook so easily. Even though I came to praise him, we all need to watch for ambiguity and reader biases. For example, at p 5:

“The characterisation of something in tax often not depends on contested facts or evidence but on the framework through which the issue is seen.”

... often not depends on ... but ...

mmm – I’ll have to think about this one, or

At p 191:

“An uncontextualised summary of the facts might not have revealed the relevance of these facts by showing how their relevance arose” ...

Mmm.

At p 19 the author makes the point that persuasion may lie subtly embedded in the rhythm and metre of the language. The author extols the rhythm of the words in Brutus’ speech in Shakespeare’s *Julius Caesar*, where he justifies Caesar’s assassination as “complementing the content of the words”.

However, earlier at p 15 he highlights the importance of the sequence and order of ideas. I am thinking that perhaps Brutus should have waited until after Mark Antony spoke!

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Ladies and gentlemen I can truthfully say that I couldn't stop reading this book from the moment I picked it up – perhaps because I wanted to finish reading it before this launch!

In the book there is a reference at p 78, in relation to the distinction between fact and law, to the 'silver dyed bleach reversal process'. Clearly Justice Pagone writes with a silver pen.

At p 17 the author contrasts Polonius' line in *Hamlet* that 'brevity is the soul of all wit' with the rambling monologue that followed. So let me be brief.

In summary, the benefits of *Tax Effective Writing* are threefold:

- (1) it provides tax practitioners and other professionals with a 'how-to' guide for the topics covered in the book – particular those new to the subject-matter;
- (2) the guidance it provides will result in better outcomes for clients; and
- (3) if Justice Pagone's advice is followed, the legal system will operate more efficiently and with less cost.

Ladies and gentlemen I am proud to launch the book – *Tax Effective Writing*.

Thank you.