



香港中文大學
The Chinese University of Hong Kong

Centre for Financial Regulation and Economic Development

金融規管與經濟發展研究中心



FACULTY OF LAW

A CFRED's Seminar:

WHEN IS A TRANSACTION A 'SHAM'?

by

Prof. Miranda Stewart

*Professor, Associate Dean (Engagement), Director, Taxation Studies
Law School, The University of Melbourne*

19 September 2012, 12:30 – 2:00 p.m.

Faculty of Law Board Room, 6/F Lee Shau Kee Building, Shatin

The doctrine of sham has a long history in common law countries, with origins in the United Kingdom. It has been applied by courts across a wide variety of different types of legal relationship and in the context of many types of statutory regime and has also been considered by scholars across a range of legal areas. In 2008, the Australian High Court caused a flurry of excitement when it upheld a finding of sham in relation to a tax avoidance scheme in *Raftland v Commissioner of Taxation* [2008] HCA 21 (2008) 246 ALR 598 (Raftland). The effect of the finding of sham was that the legal arrangements on the face of certain trust documents were held to be void and the High Court applied the tax statute, including a specific trust anti-avoidance rule, to the arrangements that were identified as reflecting the “real” legal intention of the parties. This paper examines the point and the policy of the judicial doctrine of sham.

Date: Wednesday, 19 September 2012

Time: 12:30-2:00p.m.

Venue: Faculty of Law Board Room, 6/F Lee Shau Kee Building, Shatin, N.T.

All are welcome!

Please register your interest by sending us an email to law-cfred@cuhk.edu.hk.

About the Speaker



Miranda Stewart is Associate Dean (Engagement) and Director of Tax Studies. She has many years experience in tax law in Australia and overseas. She is an International Fellow of the Centre of Business Taxation at Oxford University and was recently a visiting scholar at Christ Church, Oxford on the Melbourne-Oxford Faculty Exchange. Before joining the Faculty in 2000, Miranda taught at New York University School of Law in the leading International Tax program in the US. She previously worked in the Australian Tax Office on tax policy and legislation and as a solicitor at Arthur Robinson & Hedderwicks. She has also taught in the graduate tax programs at Osgoode Hall Law School, York University, Canada and the University of Florida Levin College of Law. Miranda's current research is on tax law and development, international tax coordination, and issues of gender and tax. She is the coauthor of *Cooper Krever Vann's Income Taxation Commentary and Materials* (2012, 8th ed) and *Death and Taxes* (2012, 4th ed) and editor of *Housing and Tax Policy* (2010). She has published on a wide range of tax law and policy topics, applying a critical perspective. She has an abiding interest in issues of tax and distributive justice in a global context.

