



THE TAX INSTITUTE

31 January 2022

The Hon Josh Frydenberg MP Treasurer
The Hon Michael Sukkar MP Minister for Housing and Assistant Treasurer
C/- Budget Policy Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: josh.frydenberg.mp@aph.gov.au, michael.sukkar.mp@aph.gov.au,
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Dear Treasurer and Assistant Treasurer,

Federal Budget 2022–23 Submission

The Tax Institute welcomes the opportunity to make a submission in response to the call by the Minister for Housing and Assistant Treasurer, the Hon Michael Sukkar, on 6 December 2021 for such submissions from individuals, businesses, and community groups on their views regarding priorities for the Federal Budget 2022–23.¹

2021 was another challenging year for the Australian people and economy. The COVID-19 pandemic has impacted all Australians and continues to cause significant disruptions for individuals and businesses alike. During this period, the tax profession has stepped up to ensure that both Federal and State Government financial support measures were being delivered to Australians and businesses in need. This high priority work was undertaken amid rapidly changing advice and in conjunction with tax professionals' usual business of providing advice and support to businesses and assisting taxpayers to comply with their taxation requirements and meet lodgment deadlines. Their efforts have played an important role in ensuring our economy continues to operate during this disruptive period.

However, this effort, as for many others, has come at a cost to the physical and mental health of tax professionals, the impact of which cannot be understated. Industry specific support to recognise the extraordinary efforts of tax professionals, and alleviate the toll this has taken on them, would be greatly welcomed.

These challenges have also highlighted and exacerbated the existing pressures on our tax system. The tax system is a crucial pillar in our economic framework. Where it functions well, the tax system can provide sustainable solutions to our debt levels and future expenditure, particularly in light of Australia's ageing population. It can help to support growing businesses and families in need. This is necessary to increase productivity, participation, and overall economic growth. In light of these objectives, it is imperative that the Government implements holistic and sustainable solutions to reform Australia's tax system.

¹ <https://ministers.treasury.gov.au/ministers/michael-sukkar-2019/media-releases/2022-23-pre-budget-submissions>.

The Tax Institute's [Pre-2021–22 Federal Budget submission \(2021–22 submission\)](#) contained a detailed overview of the need for holistic reform to Australia's tax system. These comments are even more pertinent in the current economic environment. It is crucial to begin the process of tax reform to ensure that Australia's tax system can support individuals and businesses through the challenges highlighted above by providing the foundation for economic growth. Delaying tax reform only compounds the problem and unfairly increases the burden on future generations.

We also note that since our 2021–22 submission, we have presented to the Government our discussion paper, the [Case for Change](#). This was a major tax reform project initiated by The Tax Institute, and a collective undertaking involving our members and key stakeholders including academics, industry representatives and subject matter experts. The Case for Change identifies key issues in the tax system and provides detailed and a range of holistic options for reform.

In addition to the matters raised in our 2021–22 submission, we wish to bring to the Government's attention, several significant issues within our tax and superannuation system. Key among these are the anomalous outcomes resulting from changes to the superannuation non-arm's length income provisions. These changes have the potential to improperly and unfairly impact superannuation members and their balances. Further, the myriad of superannuation caps and thresholds, along with the approach to proportional indexation of the transfer balance cap, have created a system which discourages, and in certain cases, penalises, saving in superannuation. These provisions require urgent reform to ensure our superannuation system can best support Australians saving for, and transitioning into, retirement.

We also draw to the Government's attention certain steps that can ensure that the tax system can better support those in greatest need of assistance. In this regard, further support beyond existing funding levels of the National Tax Clinic program should be prioritised. The National Tax Clinic program plays an important role in providing advocacy and assistance for vulnerable taxpayers. However, the estimated number of people who need assistance is far greater than that for which the program is able to accommodate.

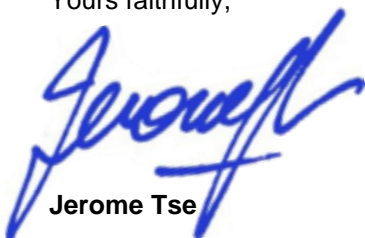
We urge Government to act on our recommendations and work towards creating a sustainable tax system that promotes efficiency, simplicity and equity.

The detail of our submission can be found at **Appendix A**.

The Tax Institute is the leading forum for the tax community in Australia. We are committed to shaping the future of the tax profession and the continuous improvement of the tax system for the benefit of all. In this regard, The Tax Institute seeks to influence tax and revenue policy at the highest level with a view to achieving a better Australian tax system for all. Please refer to **Appendix B** for more about The Tax Institute.

If you would like to discuss any of the above, please contact Scott Treatt, General Manager, Tax Policy and Advocacy, on (02) 8223 0008.

Yours faithfully,



Jerome Tse

President

APPENDIX A

Matters of urgency previously raised with the Government

The pressures of successive natural disasters combined with the ongoing COVID-19 pandemic have continued to put pressure on our economic recovery. They have increased the already excessive burdens on future generations to repay historic levels of debt, while also supporting the needs of an ageing population. The Tax Institute's 2021–22 submission outlined the pressing need to undertake a holistic reform of Australia's tax system and several key areas requiring urgent action.

Those issues remain pertinent and of significant concern to The Tax Institute and our members. Below, we have summarised the key issues and recommendations made in our 2021–22 submission. We ask that you refer to our [2021–22 submission](#) in conjunction with the points below for detailed context and analysis of the relevant issues, and further discussion of The Tax Institute's recommendations.

The Tax Institute calls on the Government to commence the steps to implement change with urgency.

Australian tax system – comprehensive review and reform

The Tax Institute calls for an independent review of the Australian tax system and its efficacy in promoting economic recovery and providing a strong foundation for Australia's future. The current tax system is complex, inequitable, and rife with inefficiencies. The well documented cost of compliance has substantially increased since initial estimates of around \$40 billion in 2012,² and is only likely to increase as short-term focussed tweaks continue to be made to our tax system. The Tax Institute recommends reform of the tax system based on the principles of good tax design: simplicity, equity, and efficiency.

Reassessing and rebalancing the Australian tax mix

Australia's economy continues to endure unprecedented challenges. In addition to the ongoing COVID-19 pandemic, a series of natural disasters in recent years have tested the ability of our tax system to support the recovery and future growth of our economy. To do so, revenue must be raised from efficient and sustainable tax bases. In Australia's case, this requires a drastic shift away from almost exclusive dependence on income taxes (both personal and corporate), to an increased reliance on more efficient taxes such as land and consumption taxes. Doing so will promote productivity, workforce participation, and investment in Australian businesses.

In the course of rebalancing Australia's tax mix, consideration should be given to the large number of inefficient taxes that do not raise significant amounts of revenue. It has been frequently stated that only 10 out of Australia's 125 or so different taxes raise 90% of all revenue.³ Several existing taxes, such as the luxury car tax, excises and alcohol taxes impose significant compliance and transactional costs for businesses. They also introduce artificial factors into commercial decision making, distorting market behaviours and stifle economic growth in affected industries.

We consider that these taxes should be largely abolished, with greater reliance placed on more efficient taxes. If the policy intent is to influence and shape behaviour, such as in the context of alcohol consumption, they should be rationalised to ensure they are streamlined and consistent in application. This will reduce their burden on business in the course of achieving their true policy intent.

² Australia's Future Tax System Review Panel (Dr Ken Henry, Chair), Australia's future tax system: report to the Treasurer, 23 December 2009.

³ Australia's Future Tax System Review Panel (Dr Ken Henry, Chair), Australia's future tax system: report to the Treasurer, 23 December 2009, p11.

GST base and rate reform

The Tax Institute is of the view that, with some reforms, the GST has the potential to be a highly efficient tax base. As part of a holistic reform of our tax system, the GST base should be broadened in conjunction with an increase to the rate, reducing our reliance on less efficient taxes. Please refer to our [2021–22 submission](#) for a detailed analysis on the importance of holistic GST reform towards creating a stronger foundation for Australia's economy.

Reduction of the corporate tax rate

Australia's corporate tax rate is uncompetitive and acts as a significant disincentive to foreign investment, on which Australia is heavily reliant. It also unfairly penalises Australian business, especially when they look to expand overseas. Overall, this is not conducive to economic growth. Further, the dual corporate tax rates create unjustified complexity, especially in relation to franking credits, and increase the cost of tax compliance and likelihood of errors.

The Tax Institute considers that a single, lower rate, no higher than 25%, should apply to all companies, irrespective of their aggregated turnover or proportion of passive income. Although this would still leave Australia in the top one-third for corporate tax rates in the OECD, and significantly higher than other jurisdiction in the Asia-Pacific region, we consider this to be a step in the right direction and a starting point for further reconsiderations.

Personal marginal tax rate system

Australia's personal tax rates are complex and, combined with the various levies, thresholds, and offsets, have the effect of hiding an individual's true rate of taxation. Please refer to our [2021–22 submission](#) for further analysis on the problems presented by our personal income tax system.

The Tax Institute recommends a holistic review to determine whether all current levies and tax offsets should be varied, retained or removed, and whether the marginal tax rates should be further adjusted. It is important to ensure that the personal income tax rates are properly integrated with the social security rules. This will alleviate existing inequalities and ensure that family units and second income earners are able to access much needed support.

Boosting the Child Care Subsidy

The Tax Institute supports increasing the Child Care Subsidy and improving its design as a practical plan to boost workforce participation and further assist the COVID-19 economic recovery by providing an immediate increase in family income. We acknowledge the Government's recent measure which, among other changes, removes the annual cap and increases the subsidy for families with two or more children under age 5 in care.⁴ While this is a step in the right direction, the changes are not adequately targeted at families who need the most assistance. We recommend that the Government provide increased support for low-income families by boosting the subsidy to 95%, irrespective of the number of children the family contains. We also recommend that the Government review the hourly rate cap in light of the increasing costs for families in the current economic environment.

Deductibility of work-related expenses

The Tax Institute recommends that, in the short term, a standard deduction for work-related expenses should be introduced together with the option to claim actual expenses properly substantiated for employees with expenses above the standard deduction threshold. This would make it much simpler for individuals/employees to comply with their personal tax obligations. It would also provide opportunities to further simplify the administration of the tax system and reduce the cost to both taxpayers and government of that administration.

⁴ Family Assistance Legislation Amendment (Child Care Subsidy) Act 2021 (Cth).

Fringe Benefits Tax

Revenue from FBT accounts for less than 1% of Australia's total annual revenue collections, yet it imposes a disproportionately high compliance cost on employers. The Tax Institute continues to recommend that the Government fundamentally reconsiders the FBT and works towards reducing the regulatory red tape.

It remains our view that the FBT regime has become antiquated and should be replaced. The policy of an FBT could be captured through simpler valuation principles to be used in accounting for benefits in kind. This will reduce the excessive compliance costs and record keeping requirements associated with the current regime. An example of where this manifests is in the operation of the FBT on car parking facilities.

The current FBT regime for car parking is arduous and requires employers to incur significant compliance costs. Employers are required to keep unreasonable records including how long each employee used each car parking spot, the times at which they entered and exited the parking facilities, and where the employee was coming from/going to the parking spot. Further, employers may also be required to undertake an analysis of the nature of another entity's business, before calculating the amount of the benefit pursuant to one of four methods.

We consider that it is possible to design a new approach to FBT on car parking which is simpler and more efficient. For example, a preferable alternative to the current system is to simply impose FBT on the number of spots made available by employers to their employees. Another alternative is to limit FBT on car parking to CBD and metropolitan areas, with simplified recording and reporting requirements.

These options are also capable of being carried forward to a new FBT regime as other provisions are similarly updated. The Tax Institute is eager to work with the Government on suitable transition pathways towards a new and redesigned FBT system.

Introduce an all-encompassing concept of a worker

The Tax Institute recommends the adoption of a broad and inclusive concept of a 'worker' to encompass the various classifications (i.e. employee, contractor and non-traditional work relationships resulting from the growing gig economy). Such a term should be defined in legislation and should apply consistently across all Australian taxes and the superannuation system. Doing so will allow our tax system to keep up with changes in the labour market, reduce compliance costs for businesses, and reduce potential opportunities for arbitrage by businesses in their selection of the type of labour contract offered to an individual.

Improving equality in retirement

There is a significant difference in the average superannuation balances of women compared to men,⁵ with the stark reality that, for many women, especially single women in their early 50s, there is no reasonable prospect of retiring with a superannuation balance capable of supporting their needs. In our [2021–22 submission](#), The Tax Institute recommended a range of possible measures that, subject to consultation, could potentially address this issue. This problem is acute and should be addressed with urgency, noting that any changes will take time to take effect in the market.

Access to superannuation for downsizers

Prohibitive financial arrangements can force Australians near retirement age who are seeking to downsize into situations where they are required to sell their current residence and relocate, potentially several times. To assist people in this situation, The Tax Institute recommends that these individuals be given short-term access to their superannuation, in accordance with the conditions outlined in our [2021–22 Submission](#), to alleviate these stresses, and subject to appropriate integrity provisions. These changes will free up capital for older Australians and assist them in more effectively self-funding their retirement, thereby reducing the pressure on government.

⁵ Clare, R. (2017) Superannuation account balances by age and gender.

Superannuation guarantee regime

The Tax Institute is of the view that the current penalty rate of 200% imposed on employers for late lodgment of, or failure to provide, a superannuation guarantee (**SG**) statement under Part 7 of the *Superannuation Guarantee (Administration) Act 1992 (SGAA 1992)* must be reformed. The draconian penalties are not aligned with the late or non-payment of wages and disincentivise employers from reporting and rectifying breaches of SG non-compliance.

We further consider that the nominal interest imposed under section 31 of the SGAA 1992 should apply only for the period that an SG contribution was not made to the fund. It should not be linked to the date on which the SG charge 'would be payable under [the] Act'. Further, the Commissioner should be provided with discretion to remit the nominal interest or administration component in appropriate circumstances.

Full expensing of depreciating assets

The Tax Institute considers that amendments should be introduced to treat as a permanent feature of the tax system the current temporary provisions that enable businesses to fully expense a depreciating asset. It is our opinion that the measure should be a choice for taxpayers and limited to assets costing less than \$30,000 for entities with an aggregated turnover of less than \$50 million. This would replace the existing \$1,000 instant asset write-off in section 328-180 of the *Income Tax Assessment Act 1997 (ITAA 1997)*, available only to small business entities with an aggregated turnover of less than \$10 million.⁶ This would bring about efficiencies and reduce the compliance burden for a large number of business taxpayers.

Reduce administrative burdens and red tape

The Tax Institute encourages the Government to conduct a thorough review of the self-assessment system and dispute resolution processes to identify opportunities to implement improvements for the benefit of the system as a whole. As detailed in our [2021-22 submission](#), our current self-assessment system creates inequitable and anomalous outcomes based on mere administrative technicalities. An example of such an outcome is the difference in penalties between an objection (free of the risk of penalty) and an amendment to a taxpayer's initial self-assessment (exposed to potential penalties). The Tax Institute recommends that a review should have the primary objective of identifying and removing these anomalies to create a simpler and fairer system.

Further, we call on the Government to ensure that our dispute resolution process can expedite matters of high precedential value or matters of public importance. Currently, the system does not adequately cater for this and can result in taxpayers being left in a state of uncertainty as important cases progress through the ATO objections processes and the courts. We note that the Inspector-General of Taxation and Taxation Ombudsman has called on the use of declaratory proceedings in such circumstances. However, given the advice the Commissioner received noting the limitations of such proceedings,⁷ we consider that there may be a need for legislative amendments that permit the circumvention of the objections process prior to court appeal in certain cases. Alternatively, we consider that the formation of a suitably qualified judicial body to resolve such matters promptly is required.

Separately, The Tax Institute recommends centralising the collection and administration of employment taxes into one body, for example, the ATO. This would result in greater consistency and efficiency in the administration and enforcement of these taxes.

⁶ The instant asset write-off in section 328-180 of the ITAA 1997 is currently replaced by the temporary full expensing measures in Subdivision 40-BB of the *Income Tax (Transitional Provisions) Act 1997*.

⁷ For further information regarding the Commissioner's views on the limitation of declaratory proceedings, refer to the advice referenced and linked in the Decision Impact Statement for *Commissioner of Taxation v Indooroopilly Children's Services Pty Ltd* under the headings 'Tax Office view of Decision' and 'Declaratory Proceedings' www.ato.gov.au/law/view/view.htm?docid=LIT/ICD/QUD253OF2006/00001&PiT=99991231235958; further discussion on the ATO's view on the use of Declaratory Proceedings may also be found in PSLA 2009/9, paragraphs 98 – 110 www.ato.gov.au/law/view/view.htm?docid=PSR/PS20099/NAT/ATO/00001&PiT=99991231235958.

Responses to Board of Taxation reports and unenacted announced tax measures

A number of reviews have been conducted by the Board of Taxation to which the Government has not yet provided a response. For a summary of the key reviews to which the Government has not responded, we refer to our [2021–22 submission](#). We recommend that the Government provide an immediate response.

Further, we call on the Government to state its intentions in relation to the substantial number of announced, but as yet, unenacted, tax measures. Taxpayers require certainty in their business operations and tax affairs, making the Government's announcement regarding these measures an urgent matter.

Superannuation and Retirement

Superannuation plays a crucial role in financially supporting older Australians during their retirement and reducing the burden on future generations to support Australia's ageing population. The current superannuation system is complex and discourages individuals from saving in superannuation. Below we have discussed some of the most pertinent issues in the current system and our recommendations for reform.

Superannuation non-arm's length income provisions

The Tax Institute is of the strong view that the non-arm's length income (**NALI**) provisions, contained in section 295-550 of the ITAA 1997 need urgent reform. The rules in their current form will have far-reaching, and harmful consequences for fund members in commonplace scenarios. This has the potential to significantly impact the superannuation balances of all Australians resulting from minor and inconsequential actions, potentially even in instances where the trustee is acting in the best financial interests of its members.

The non-arm's length expenditure (**NALE**) provisions were originally intended to ensure that superannuation funds did not circumvent the contribution caps by using NALE to inflate their overall income.⁸ However, as evidenced by the ATO's guidance in Law Companion Ruling LCR 2021/2: *Non-arm's length income – expenditure incurred under a non-arm's length arrangement* and Practical Compliance Guideline PCG 2020/5: *Applying the non-arm's length income provisions to 'non arm's length expenditure' – ATO compliance approach for complying superannuation entities*, the administration of the legislation is significantly broader than the policy intent. In some instances, the NALE provisions can directly conflict with trustee obligations such as the duty to act in the best financial interests of the beneficiary.

The rules in their current form have the scope to tax all future income of a superannuation fund at a punitive rate, even in cases of immaterial breaches. These breaches may arise from common activities, such as in-house bookkeeping or auditing activities for low or no fees, services being provided to funds at little or no margin by wholly owned entities, or trustees acting in the best financial interests of their members by choosing a lower cost option. The scope of these rules likely means that most, if not all, superannuation funds, will at some time fall foul of them. Many may unknowingly have already done so.

The tax impact on superannuation funds and individuals' balances cannot be understated. The resulting liability for NALI in superannuation funds will be subject to tax at the rate of 45% (three times higher than the standard 15% rate), effectively taxing the fund's income and all contributions at a rate similar to the highest personal income tax bracket, and, in some cases, up to 75%. Moreover, the NALE provisions have the potential to taint all of a fund's income and the income or gains on affected assets.

The Tax Institute calls on the Government to act promptly and rectify the operation of the NALI provisions. We strongly consider that the provisions can be amended in scope and application while meeting the original policy intent. Please refer to **Appendix C** which contains a recent letter to Treasury from The Tax Institute and a number of professional bodies that details possible solutions.

⁸ Second reading speech to the *Treasury Laws Amendment (2018 Superannuation Measures No. 1) Bill 2019*.

Consistent thresholds for superannuation measures

There is a complex patchwork of caps, thresholds and concessions in the superannuation system. The inefficiency and complexity created by the gradual and inconsistent addition of new measures and thresholds over time has served only to compound these issues. This has caused many taxpayers to inadvertently breach the relevant rules, with severe consequences in terms of their retirement savings or penalties.

The Tax Institute acknowledges that there is a trade-off between simplifying the complexity of the law that has evolved through piecemeal changes over many decades, and ensuring that the benefits provided to taxpayers in the form of concessional measures are appropriately targeted. We therefore consider that the superannuation caps, thresholds and concessional measures should be reformed to be more consistent and simpler.

This can be achieved through the following changes:

- adopting a consistent reference point for indexation, such as using average weekly ordinary time earnings over the Consumer Price Index;
- adopting a single and consistent methodology for all caps and thresholds;
- consolidating the total superannuation balance and transfer balance cap (**TBC**) into a single lifetime cap which would limit the amount that can remain in the superannuation system and be concessionaly taxed;
- a single dollar threshold for other superannuation concessions;
- replacing the contribution limits with a return to a mechanism based on excessive benefits; and
- increasing the concessional contributions cap or reintroducing a higher cap for those who are more likely to be able to contribute towards the end of their working lives.

Removal of proportionate indexation of the transfer balance cap

The Tax Institute recommends that the Government abolishes proportionate indexation of the transfer balance cap (**TBC**) to simplify the superannuation rules from both a compliance and administrative perspective. The TBC limits the amount of capital that an individual can set aside to pay a superannuation income stream. Earnings on such capital are not subject to tax. Once an individual commences a retirement phase income stream, they obtain a personal TBC which is equal to the general TBC (\$1.6 million from 1 July 2017 to 30 June 2021, and \$1.7 million from 1 July 2021).

Where an individual does not utilise the full general TBC, a proportional indexation of their TBC is applied. However, the complexity of proportionate indexation renders it an inefficient and unwieldy manner to limit an individual's tax-free earnings in superannuation. The recent indexation of the general TBC from \$1.6 million to \$1.7 million from 1 July 2021 has been met with a predictable chorus of criticisms that the proportionate indexation approach for those who had already commenced an income stream has made the system significantly more complex.

Many concerns regarding the difficulties that proportionate indexation would bring were first expressed when the TBC rules were introduced in 2017. Proportionate indexation of the TBC for certain individuals means that thousands of superannuation fund members have a different TBC to the rest of the population. This complication, together with the current inability to access timely TBC data from the ATO has made it difficult for advisers to provide accurate advice. As the system imposes the same penalties on inadvertent breaches as deliberate non-compliance, superannuation fund members may be faced with unfair penalties as they attempt to navigate the rules with their advisers.

The Tax Institute therefore recommends that the Government considers removing proportionate indexation of the TBC and instead apply indexation universally to all superannuation fund members to reduce the complexity of the superannuation system. This change would give superannuation fund members greater certainty around their TBC amount, and reduce the administrative burden for the ATO in monitoring and regulating the regime.

Non-lapsing of binding death benefit nominations

Binding death benefit nominations (**BDBNs**) provide a mechanism for members of superannuation funds to ensure that the trustee of their fund deals with their interest in the fund according to their wishes following their death. The regulatory framework broadly provides that a BDBN remains in effect for up to 3 years from the day it was first signed, last confirmed, or last amended by the member (or less if the trust deed stipulates a shorter period).⁹ This means that a member will need to regularly reconfirm a BDBN to ensure it remains legally enforceable so that the trustee will execute the BDBN as intended. This requirement creates unnecessary compliance costs for individuals using BDBNs as part of their estate planning.

However, the 3-year expiration period of BDBNs does not automatically apply to self-managed superannuation funds (**SMSFs**) in the same way. As BDBNs in an SMSF do not need to be made in accordance with the *Superannuation Industry (Supervision) Regulations 1994* (Cth) (**SIS Regulations**), they are not subject to the 3-year lapsing period, unless the SMSF's trust deed specifically includes this requirement.

We recommend that the Government changes the default position of BDBNs to be non-lapsing for all types of superannuation funds. This change would reduce the administrative costs for fund members to ensure that their BDBNs remain effective and provide greater certainty that their superannuation benefits will be dealt with according to their wishes. This may be implemented by making BDBNs non-lapsing for all superannuation funds by default and allowing members to opt into the 3-year lapsing period as provided in the current regulations.

Review and refresh of statutory thresholds

The *Income Tax Assessment Act 1936* (**ITAA 1936**) and the ITAA 1997 (collectively, **the Tax Acts**) contain a range of thresholds, rates and caps that are used to determine eligibility to concession and relief measures, or liability to tax. Some of these thresholds are indexed on a regular basis, whereas others remain fixed until they are increased by a subsequent amendment. Examples of indexed thresholds include the cents per kilometre method used to determine deductions for work related car expenses under Subdivision 28-A of the ITAA 1997, and the thresholds and rates used to determine liability to Medicare Levy Surcharge.

Examples of the latter case include:

- Lifetime cap of \$500,000 for the small business retirement exemption under Subdivision 152-D of the ITAA 1997.
- \$5 million aggregated turnover threshold for the small business income tax offset under Subdivision 328-F of the ITAA 1997.
- \$2 million debt deduction *de minimis* threshold in section 820-35 of the ITAA 1997 used to determine if a taxpayer is required to apply the thin capitalisation rules.
- The various thresholds used to determine if a business is classified as a 'small business'.
- Personal income tax rates.

Irrespective of whether the threshold is indexed, our economy and living circumstances have undergone significant changes since the time these thresholds were originally introduced. We therefore recommend that the Government undertake a comprehensive review and refresh of the various thresholds in the Tax Acts, particularly those that are fixed. This will ensure that they keep pace with inflation and continue to apply to the intended taxpayers.

⁹ See *Superannuation Industry (Supervision) Regulations 1994*, sub regulation 6.17a(7).

Expansion of the National Tax Clinic program

The National Tax Clinic program is a key government-funded initiative where participating universities provide pro-bono tax assistance and advice to disadvantaged individuals and organisations. These services are provided by university students under the supervision and guidance of qualified clinic managers. The program helps to remove barriers preventing socially and culturally diverse groups from obtaining tax advice and assistance in circumstances that may ordinarily hinder them from accessing professional help. This includes individuals who are in circumstances of domestic violence, have a disability, or for whom English is a second language.

Following the initial pilot program in 2019, the Government committed a further \$4 million to the initiative over the following 4 years.¹⁰ The strong uptake of the program highlights the unprecedented role the National Tax Clinic plays in addressing inequalities in taxpayer support and engagement across the community.

In and around Sydney alone, it is estimated that each year as many as 840,000 financially vulnerable are unable to access much needed independent professional tax advice.¹¹ We understand that there are similar concerns with the ability to provide support in other States and Territories. Further, the number of people experiencing financial distress is predicted to grow substantially over the coming 24 months, given the recent shocks to the Australian economy, including the impact of droughts, bushfires, floods, and of course, the COVID-19 pandemic.

The National Tax Clinic program would benefit from resources that would allow them to increase their capacity and better assist taxpayers. The Tax Institute has been in contact with the University of New South Wales Tax Clinic, which was part of the initial pilot group for the National Tax Clinic. Our understanding is that the program nationally was able to assist 1,937 people in the financial year ended 30 June 2019 and 2,407 people in the financial year ended 30 June 2020. While an enormous effort on the part of the Tax Clinics, they are clearly under resourced considering the number of people who are estimated to need assistance.

The Tax Institute strongly supports the provision of additional funding to the National Tax Clinic program to ensure that they are able to assist socially and financially disadvantaged members of the community to access tax advice and advocacy.

Additional funding will cultivate greater engagement with the tax system and improve the general level of tax literacy in the community. In particular, it would assist the Tax Clinics to provide greater support regarding:

- elements of financial distress that extend beyond tax affairs, such as poor accounting/record keeping, financial management and business planning; and
- literacy in financial management and tax matters for individuals and small businesses.

As a supplementary benefit, we note that the program is also invaluable in preparing university students for the workforce, as it provides them with opportunities to build their technical skills, professional competence and confidence while giving back to the Australian community at the same time.

¹⁰ As announced in the 2019-20 Mid-Year Economic and Fiscal Outlook. Available at <https://archive.budget.gov.au/2019-20/fbo/download/FBO-2019-20.pdf>

¹¹ Dr Ann Kayis Kumar, Michael Walpole, Gordon Mackenzie (2020), [UNSW Tax Clinic – Submission to the Inquiry into the Commissioner of Taxation Annual Report 2018-19](#).

APPENDIX B

About The Tax Institute

The Tax Institute is the leading forum for the tax community in Australia. We are committed to representing our members, shaping the future of the tax profession and continuous improvement of the tax system for the benefit of all, through the advancement of knowledge, member support and advocacy.

Our membership of more than 11,000 includes tax professionals from commerce and industry, academia, government and public practice throughout Australia. Our tax community reach extends to over 40,000 Australian business leaders, tax professionals, government employees and students through the provision of specialist, practical and accurate knowledge and learning.

We are committed to propelling members onto the global stage, with over 7,000 of our members holding the Chartered Tax Adviser designation which represents the internationally recognised mark of expertise.

The Tax Institute was established in 1943 with the aim of improving the position of tax agents, tax law and administration. More than seven decades later, our values, friendships and members' unselfish desire to learn from each other are central to our success.

Australia's tax system has evolved, and The Tax Institute has become increasingly respected, dynamic and responsive, having contributed to shaping the changes that benefit our members and taxpayers today. We are known for our committed volunteers and the altruistic sharing of knowledge. Members are actively involved, ensuring that the technical products and services on offer meet the varied needs of Australia's tax professionals.

APPENDIX C

Please refer to the embedded document for the submission by The Tax Institute and a number of other Professional Bodies detailing the issues presented by the NALI provisions. The submission below also details potential legislative solutions that, with further public consultation, could resolve the issues and ensure the NALI provisions operate as originally intended.



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Submission - NALE-I.j