



National Tourism Alliance

Submission to Re:think Tax Discussion Paper

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5. Queensland Tourism Industry Council
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12. Victoria Tourism Industry Council
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INTRODUCTION

Tourism could be a super growth industry

Tourism and hospitality make a huge contribution to Australia's economy, and all levels of government have an important role to play in the regulation, development, marketing and growth of this sector. Achieving an increase in tourism expenditure is in the interests of both the States' and the national economies.

Manufacturing is declining. The mining investment boom is waning. Against the backdrop of an economy in transition, tourism continues to emerge as one of the foundations of Australia's future prosperity. Thirteen per cent of businesses in Australia are linked to tourism.¹ Australian tourism offers high-employment opportunities, a rapidly expanding base of potential customers and a strong competitive advantage. Tourism is already Australia's largest service export, employing almost twice as many people as the mining industry, and generating expenditure of over \$100 billion every year - more than all our primary industries combined.

The significant potential of Australia's tourism industry was highlighted in the recent Deloitte Access Economics report *Positioning for Prosperity*. The report identified tourism as one of Australia's five super growth industries capable of collectively delivering an additional \$250 billion to the national economy over the next 20 years². This potential is contingent on good government policy.

The Australian government, with all the states and territories, has endorsed an aggressive tourism target as part of the Tourism 2020 strategy. Very strong growth in Asian visitor spending, the fastest growing segment of Australia's visitor economy, underpins the target of doubling nominal overnight visitor spending from \$70 billion in 2009 to \$115-140 billion by 2020. But at the moment even the lower end of the range seems out of reach.

Critical to delivering the upper bracket of the growth target is to deliver an accessible, welcoming and high-quality experience for all visitors – be they international or domestic, and whether they are in Australia for a holiday, for business or to study. With huge global competition for the tourism market, Australian businesses need to be innovative and competitive. Australia's tax system is fundamental to determining whether tourism and hospitality can achieve its 2020 targets, and beyond.

¹ Tourism Research Australia, *Tourism Businesses in Australia, June 2010-June 2012*, October 2013, p.vi

² Tourism Research Australia, *Tourism Businesses in Australia, June 2010-June 2012*, October 2013, p.vi

Economic Snapshot of Tourism

The visitor economy is critical to the Australian economy:

- **\$113.3 billion:** Tourism consumption in Australia totaled \$113.3 billion in 2013-14.
- **\$43.4 billion:** Tourism's contribution to Australian gross domestic product (GDP), a 2.7% share of the Australian economy
- **929,000:** Jobs supported by visitor expenditure, either directly or in related industries. This represents one in every 12 jobs across the country
- **\$27.2 billion:** Tourism exports; consumption by international visitors in Australia, 8.2% of total national exports
- **\$102.1 billion:** Visitor spending per day: international and domestic tourists and business travelers

It is axiomatic that with an industry of this size and economic importance, and its diversity of interests as a sector, Australia's tax system is key to the growth, or otherwise, of tourism and hospitality.

The Re:Think Tax Review

The National Tourism Alliance (NTA) is pleased to provide a submission to this process. The NTA represents industry associations with an interest in Australia's tourism and hospitality industry, and its membership comprises national and state industry associations who together represent the interests of an industry with 280,000 businesses in Australia; around 90 per of these are small businesses, and about half are in regional areas. These businesses employ 1 million people across Australia.

Small businesses across all sectors play a significant role in the Australian economy, particularly in terms of their contribution to employment and production. Around 95 per cent of the 2 million actively trading businesses in Australia in 2011 were small businesses: around two thirds had no employees, a quarter had up to four employees and a tenth had between 5 and 19 employees³.

In this context, the NTA welcomes the Federal Government's attention to identifying features of the tax system that are unreasonably or unnecessarily hindering or preventing small businesses from pursuing and achieving their commercial goals.

Tourism is the country's largest export services sector; the total consumption of tourism goods and services in Australia is \$113.3 billion. The Productivity Commission notes that while service industries account for approximately 70 per cent of the Australian economy, they represent only 20 per cent of Australia's total exports, indicating that there is scope for significant growth.

As a sector that accounts for 3 per cent of Australia's GDP and employs one million people, the tourism industry welcomes this tax review. The NTA presents its proposals to reform taxes to boost economic

³ Small Business, An Economic Overview, Reserve Bank of Australia, 2011,

growth, and, in representing an industry comprising a high proportion of small businesses, highlights that reducing complexity should be a priority for tax reform.

The economic and social context

The National Tourism Alliance agrees with the general call that has come from Australia's business community to the Australian Government, urging that there be a frank and open discussion about the whole tax system. This approach will provide the means to maintain Australia's competitiveness, and the path to growth in living standards and workforce participation.

It is essential that the Government remains open to the many ideas that will be raised, including potential changes to GST. Australia's tax system needs to be open to all ideas that will ultimately encourage economic growth, employment, participation and innovation across the community.

The changing demographics of Australia's society provides the impetus and the rationale to examine the tax system holistically, rather than making piecemeal changes around the edges. We urge the Government to take this opportunity to make the changes that will ensure a prosperous Australia into the future, through a fair and equitable tax system.

We commend the Government's consultation process and are pleased to make a submission on behalf of Australia's tourism and hospitality industry.

SUMMARY OF RECOMMENDATIONS

Recommendation 1: That the Government implements a paradigm shift in thinking in relation to the present regime to one where equity can be better achieved by an efficient, easy to understand tax system, rather than by a “close off loophole at any cost mentality”.

Recommendation 2: That complexity/efficiency tradeoff benchmarks be adopted to trigger law review where interpretative rulings have become too complex for an average business operator to understand.

Recommendation 3: If a taxation issue cannot be easily explained in a guide to small business operators using everyday language, then it is too complex, and should be reconsidered.

Recommendation 4: A system of outreach to assist small business people to understand their specific compliance obligations and set up systems to streamline preparation of information.

Recommendation 5: Implement a real program of measurable red tape reduction for all size businesses, that takes account of the compound effect of other compliance requirements in addition to tax compliance.

Recommendation 6: Phase in a tax loss carry-back scheme.

Recommendation 7: Payroll tax should be substantially reduced by this total tax review, and be replaced by alternative taxation income collected federally. As an interim measure, payroll tax thresholds should be aligned across jurisdictions.

Recommendation 8: Reform the FBT regime to make it fairer and reduce the disproportionate burden on small businesses.

Recommendation 9: The Government should commit to no new taxes on the tourism industry, and review the industry’s proposals for alternative revenue sources and cost recovery (refer section (b) below).

Recommendation 10: No further increase to the PMC, and for a new holistic model to be developed that allows government to charge a commercial rate for premium products at a market-defined rate. This holistic approach would create a new, fairer regime that is responsive to price sensitivity and open to new product innovation, and will enable the PMC and visa charges to be reduced.

Recommendation 11: Visas fees to be based on true cost recovery, and a regular review process to be implemented to prevent future over-collections.

Recommendation 12: Remodel Australia’s visa regime in line with global best practice and key competitor markets, to remain competitive whilst maintaining the integrity of the system.

Recommendation 13: Reform the tourist refund scheme to allow competition by private refund operators.

Recommendation 14: A 50 per cent capital works deduction bonus, with the remaining 50 per cent spread over 12.5 years at 4 per cent to stimulate investment in new developments as well as refurbishments for short term accommodation operators.

Recommendation 15: Reforms to the Building Code where tourist developments are disadvantaged, and new apartments that are to be used for short term accommodation and hotels should be treated consistently in respect of building requirements.

Recommendation 16: Review current land tax and conveyancing stamp duty regimes and replacement with a broad-based nationally consistent land tax.

1. REDUCE COMPLEXITY AND THE COST OF DOING BUSINESS

a. Reducing complexity and the regulatory/compliance burden

Given the domination of tourism by small business, the single biggest issue is that the tax regime is too complex. This complexity needs a fundamental overhaul driven by a paradigm shift. Such a paradigm shift has to move from a culture of “close any loophole at any cost” to one where the productivity and efficiency costs of complexity need to be taken into account.

Laws written by policy makers need to be clearer in the first instance. If laws require extensive rulings to interpret them, then the law itself needs to be reviewed. Interpretation by the ATO has now become so extensive that it could be seen as back-door policy making. As a measure of the paradigm shift needed, the new benchmark should be that if a tax issue cannot be adequately explained and illustrated in the ready reference guides issued to small business then it is too complex. The policy makers then need to decide whether the rate of tax needs to be adjusted to allow for leakage, or even whether the productivity costs to the community are worth the ability to attempt to levy taxation.

Recommendation 1: That the Government implements a paradigm shift in thinking in relation to the present regime to one where equity can be better achieved by an efficient, easy to understand tax system, rather than by a “close off loophole at any cost mentality”.

Recommendation 2: That complexity/efficiency tradeoff benchmarks be adopted to trigger law review where interpretative rulings have become too complex for an average business operator to understand.

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i. Understanding the requirements

A majority of businesses in various surveys over the years report that the ATO compliance burden is the most significant in terms of cost and time taken⁴, or that this is the area of regulation and compliance that they were most concerned about.

One reason could be that, as found in the surveys, including the Board of Taxation survey in 2007, it is often understanding the obligations and preparing the information that makes up the majority of the time and cost burden.

Whilst there is a significant amount of information on the ATO website, it can be difficult to find the relevant information quickly and easily. Often, small business people need to refer to a subset of a much larger body of information, or fill in an extensive form in which only a small portion refers to their business. A system of outreach would assist small business people to understand their specific compliance obligations and set up systems to streamline preparation of information. An advisor can direct them to

⁴ NSW Business Chamber Red Tape Report 2010, 2011, 2013; ACCI Red Tape Survey 2012; *Measuring Red Tape: Understanding the compliance burden on Tasmanian businesses*, Stenning & Associates and KPMG, 2013

the necessary information and inform them in simple terms what is required, rather than the business person having to sift through and interpret the large volume of information on the website and work out what is relevant to their business.

Recommendation 4: A system of outreach to assist small business people to understand their specific compliance obligations and set up systems to streamline preparation of information.

ii. Significant impact on small businesses

It is well established and acknowledged by governments and regulatory bodies that compliance costs have a more significant impact on small businesses than on larger businesses. The Board of Taxation report states “[compliance costs] are regressive, with a given cost imposing a proportionately higher impost, the smaller the business.”⁵ All State governments have instituted varying levels of red tape reduction initiatives, such as the Red Tape Commissioner in Victoria, in an acknowledgement that action is needed to encourage growth, innovation and diversity in small businesses where the compliance burden is felt disproportionately heavier.

It is important for regulators and institutions to act on this knowledge, especially as the costs to small businesses are often non-financial in that it can cause stress and related ill-health, and also affect the personal life of the small business people, which can have just as much of an impact on their ability to carry on business. This feature of the tax compliance burden can have a significant role in preventing small business people from pursuing commercial goals.

iii. Compound effect of other compliance burdens.

Whilst the surveys demonstrate that the ATO in particular is seen by small business as imposing a significant compliance burden which restricts their growth potential, it is important to note that the impact of other areas of compliance can weigh just as heavily on small businesses. Taken in aggregate, the majority of businesses are finding that year on year the time and cost of all compliance activities is increasing. The surveys regularly find that at least half the respondents state that the compliance burden was restricting the growth or expansion of the business.

One development that is concerning is that the second most complex and time consuming area where businesses are finding it difficult to understand and comply with the requirements are the employment-related⁶ regulations of workplace health and safety, conditions of employment, and employing workers. This is not to say that businesses are trying to avoid their obligations; the issue is that the complexity in finding information, understanding what is required, and preparing the information is imposing the most cost on the business, and therefore constraining their ability to grow.

The cost and complexity of employing staff, apart from their actual wages, is a constraint to growth as many businesses may choose to remain below certain thresholds to avoid the regulatory burden. In recent surveys, employment-related compliance time and cost is starting to overtake that of the ATO. In the service-oriented tourism and hospitality sector, the compliance burden that acts as a disincentive to employ staff is a serious constraint to growth, as well as to quality of service.

⁵ Scoping study of small business tax compliance costs, Board of Taxation, 2007

⁶ ACCI Red Tape Survey 2012

Recommendation 5: Implement a real program of measurable red tape reduction for all size businesses, that takes account of the compound effect of other compliance requirements in addition to tax compliance.

b. Enable businesses to offset income losses against capital gains

The *Tax and Superannuation Laws Amendment (2013 Measures No. 1) Act 2013*⁷ previously allowed companies with tax losses in the 2012-13 income year to ‘carry-back’ these losses to be offset against tax paid in the 2011-12 income year.

However, these ‘tax loss carry-back’ provisions were repealed with effect from 30 September 2014 with the passing of the *Minerals Resource Rent Tax Repeal and Other Measures Act 2014* (‘MRRT Act’).⁸ The practical effect of this repeal was that companies were no longer able to carry-back tax losses in the 2013-14 income year or in future income years.⁹

Since this repeal, no indication has been received from the current Coalition government at the Federal level of any intention to re-introduce these tax loss carry-back provisions, including within the 2015-16 Federal Budget.¹⁰ However, we note that there has been support from minority parties – including The Greens¹¹ – for the re-introduction of this initiative. This was Coalition policy prior to the 2013 election, and the industry welcomed the policy, which unfortunately had been politicized.

The NTA supports the re-introduction of the tax loss carry-back regime. Whilst we acknowledge that the re-introduction of the tax loss carry-back measure may reduce revenues by approximately \$950 million over the forward estimates period,¹² our view is that this cost is outweighed by the overwhelmingly positive impact of this measure in supporting and growing Australian businesses through:

- Acting as an automatic stabiliser by providing additional cash flow during periods of economic downturn;^{13 14} and
- Providing incentives for businesses – particularly small and medium sized businesses – to invest in projects that may result in short-term tax losses but that will enhance long-term profitability.¹⁵ Reintroduction of this measure would ensure that these businesses could operate safe in the

⁷ *Tax and Superannuation Laws Amendment (2013 Measures No. 1) Act 2013*.

⁸ *Minerals Resource Rent Tax Repeal and Other Measures Act 2014*.

⁹ Australian Tax Office, *Company loss carry-back tax offset* (6 January 2015)

<https://www.ato.gov.au/General/Losses/In-detail/Companies/Company-loss-carry-back-tax-offset/?page=1#When_can_this_be_claimed_>.

¹⁰ Commonwealth of Australia, *Budget Measures 2015-16: Budget Paper No. 2*, 12 May 2015.

¹¹ The Greens, *Small business package puts back what government took away* (13 May 2015)

<<http://greens.org.au/node/11092>>.

¹² Australian Government Board of Taxation, *Review of Tax Impediments Facing Small Business: A Report to the Government*, August 2014, p 88.

¹³ Ibid.

¹⁴ Australian Government Treasury, *Business Tax Working Group – Final Report on the Tax Treatment of Losses*, 13 April 2012, p 19.

¹⁵ Ibid.

knowledge that these short-term tax losses incurred could be 'cashed out' against past income tax paid.

With specific reference to the tourism industry, we note that as at 2014 there was \$53.7 billion in projected and actual tourism investment across 168 projects in Australia, all in various stages of completion.¹⁶ This amount includes \$10.9 billion in investment across 23 projects that were in the pre-commencement stage. The re-introduction of the tax loss carry-back regime would provide the impetus for companies undertaking these projects to fast-track existing investment and expand their future investment plans. This would provide a significant flow-on effect to the Australian economy driven by the additional domestic and international visitors to these sites.

With regard to the form of the tax loss carry-back regime proposed to be re-introduced, the NTA supports the form previously introduced within the *Tax and Superannuation Laws Amendment (2013 Measures No. 1) Act 2013*. However, in order to reduce the cost to revenue to the Federal Government during the period of re-implementation of this measure, we recommend that the measure be 'phased in'.¹⁷

A prudent phased re-implementation option would initially be to provide small companies with access to the tax loss carry-back regime, followed by large and medium companies. Whilst we would also prefer that the regime be extended to apply to the large number of businesses that operate as sole traders, in partnerships and through trusts, we acknowledge that the forecast significant costs to revenue and additional compliance complexity that this may cause.¹⁸ As such, we request that the extension of application of the tax loss carry-back regime to these non-company entities be reconsidered further after phased re-implementation for company entities has been successful.

Recommendation 6: Phase in a tax loss carry-back scheme.

c. Reducing the impact of payroll taxes on tourism and hospitality

The spread of state taxes was scheduled to be completely overhauled as part of the GST agreements with the States in 2000. As we are aware, this did not occur to the extent that was originally envisaged. This situation has left businesses burdened by poorly applied payroll taxes, land taxes and stamp duties that clearly impact business decisions in an inefficient way. Payroll tax is a direct tax on employment and needs to be reduced.

Payroll taxes reduce the competitiveness of highly labour intensive businesses such as tourism and hospitality. The service sector (now 82% of employment) bears the brunt of the payroll tax burden. A number of significant industries within the tourism sector are highly labour-intensive, including accommodation and cafes and restaurants. Businesses within these industries more quickly reach the thresholds in place, relative to business turnover.

In addition, payroll taxes impose additional administrative burdens on business operators, particularly labour-intensive small and medium enterprises that have payroll over the exemption threshold. Business

¹⁶ Australian Government Austrade, *Tourism Research Australia: Australian Tourism Investment Pipeline 2014* (2014) <[http://www.tra.gov.au/#prettyPhoto\[gallery1\]/0/](http://www.tra.gov.au/#prettyPhoto[gallery1]/0/)>.

¹⁷ This is consistent with the argument put forward in above n 8, p 33.

¹⁸ Above n 6.

operators with operations located in different states and territories face unnecessary compliance costs due to differential rates and exemptions thresholds.

Recommendation 7: Payroll tax should be substantially reduced by this total tax review, and be replaced by alternative taxation income collected federally. As an interim measure, payroll tax thresholds should be aligned across jurisdictions.

d. Reforming the FBT regime

The Fringe Benefits Tax (FBT) was introduced to Australia in 1986: the *Fringe Benefits Tax Assessment Act 1986*.¹⁹ The catalyst for the introduction of the FBT was the Federal Government's increasing concern that non-cash benefits provided by employers to employees and their associates were not subject to tax, creating a 'leakage' to Federal tax revenue.

The purpose of the FBT was to eliminate this leakage by levying a tax on non-cash benefits provided by employers to employees and their associates at the employer-level where they are provided, rather than the employee/associate-level where they are received.

Whilst the introduction of the FBT has been successful in plugging this tax revenue leakage, the imposition of the tax at the employer-level has created an unjust and disproportionate compliance burden for small business employers as compared to the benefits provided to tax revenue.

The NTA agrees with the Board of Taxation²⁰ that there are three main categories that require attention in reducing this FBT compliance burden on small business employers:

- i. Improvement of administrative arrangements;
- ii. Increasing the scope of FBT exemptions; and
- iii. Undertaking structural reform of the FBT system.

i. Improvement of administrative arrangements

The FBT regime is incredibly complex, primarily due to the continuous changes to FBT legislation as the law attempts to 'catch-up' with the operations of businesses as they evolve over time.

The complexity of the FBT as compared to other taxes, as well as the unjust and disproportionate 'compliance surtax'²¹ borne by small business employers compared to large business employers, is evident in PricewaterhouseCoopers findings that 'the heaviest compliance surtax incurred by business in Australia relates to FBT' and 'the mean FBT surtax for the small/medium enterprise sample is 31.2%'.²²

¹⁹ *Fringe Benefits Tax Assessment Act 1986*.

²⁰ Australian Government Board of Taxation, *Review of Tax Impediments Facing Small Business: A Report to the Government*, August 2014, p 52.

²¹ The cost of complying with the Australian tax system is an additional cost borne by all businesses.

Not only does business incur taxes which are paid to the government, business also incurs the cost of complying with the system, or a 'compliance surtax'. The compliance surtax is calculated as total compliance costs as a percentage of taxes borne.

²² Price Waterhouse Coopers, *Small and Medium Enterprises Total Tax Contribution Report*, December 2009, p 8.

These findings indicate that the cost to small business employers in complying with FBT is a staggering \$0.31 for every \$1.00 in FBT paid to the Federal Government.

In order to reduce the compliance burden on small business employers, we recommend that the FBT year be aligned to the income year for small business employers.

This would eliminate the current requirement to effectively calculate FBT twice per calendar year; once at 31 March for the FBT year and once at 30 June for the purposes of financial reporting and preparation of income tax returns. Reducing the number of times the calculation is required would have flow-on effects to reducing compliance costs.

We note that further investigation of this recommendation is supported by the Board of Taxation²³.

ii. Increasing the scope of FBT exemptions

The FBT regime requires employers to undertake calculations in determining the taxable value of each fringe benefit provided and assess whether there are any reductions to taxable value available or exemptions from FBT available for each fringe benefit. Given the calculations, reductions and available exemptions differ depending on the type of each fringe benefit, the cumulative time/money spent in undertaking this process for each type of fringe benefit presents a significant compliance burden for small business employers that is not outweighed by the total contributions of these businesses to tax revenue via FBT payable.

In order to reduce the compliance burden on small business employers, we recommend that the minor benefits exemption²⁴ threshold be increased from \$300 to \$500.

An increase in this threshold would increase the amount of benefits provided that are exempt from FBT, resulting in a small decrease in FBT revenue received by the Federal Government. However, this decreased FBT revenue would be more than offset by the significant time/money savings to small business employers as less time would be spent considering whether FBT was applicable to low value items that have an overall minimal impact upon total FBT revenue.

We note that further investigation of this recommendation is supported by the Board of Taxation.²⁵

We recommend that there be an increase in the scope of existing FBT exemptions and that additional exemptions be introduced for fringe benefit types that have minimal contribution to tax revenue.

²³ Pitcher Partners, *Outcomes from the Review of Small Business Tax Impediments* (February 2015) <[http://www.pitcher.com.au/sites/default/files/downloads/CPN%20Bulletin%20-%20Outcomes%20from%20the%20Review%20of%20Small%20Business%20Tax%20Impediments%20\(Feb%202015\).pdf](http://www.pitcher.com.au/sites/default/files/downloads/CPN%20Bulletin%20-%20Outcomes%20from%20the%20Review%20of%20Small%20Business%20Tax%20Impediments%20(Feb%202015).pdf)>.

²⁴ Above n 19, section 58P

²⁵ Ibid.

We acknowledge that an additional exemption for work-related portable electronic devices was added to the FBT regime as part of the 2015-16 Federal Budget.²⁶ However, this will have minimal impact on reducing the overall FBT compliance burden on small business employers.

We recommend that *de minimus* threshold be introduced to exempt small business employers with a small number of employees from FBT, and that the small business entity concession for car parking fringe benefits be extended to all FBT requirements for small business, up to a possible maximum of \$30,000.

Broadly, the number and value of fringe benefits provided by small business employers with a small number of employees results in an insignificant percentage of the total FBT revenue received by the Federal Government. Despite this, small business employers incur significant time/money in complying with their FBT obligations. The exemption of certain small business employers with a small number of employees from FBT entirely would significantly reduce the compliance surtax on small business employers with minimal effect on FBT revenue.

iii. Undertaking structural reform of the FBT system

The FBT regime requires that FBT be calculated and taxed at the employer-level, rather than the employee-level. However, the AFTS Report (reference)²⁷ notes that ‘the complexity of Australia’s FBT system is exacerbated by the taxation of fringe benefits in the hands of employers, which has required the introduction of a large number of supplementary rules to ensure that fringe benefits are factored into means tests in the tax and transfer systems’.

In order to reduce the compliance burden on small business employers, we recommend that certain fringe benefits be taxed at the employee-level, rather than the employer level.

The NTA supports the recommendations presented as part of the Henry review²⁸ that:

- Fringe benefits that are readily valued and attributable to individual employees should be taxed in the hands of employees through the pay-as-you-go system; and
- Any other fringe benefits should remain taxed to employers at the top marginal rate and be non-reportable for employees.

The NTA acknowledges the role and benefits of the FBT as a whole, however we perceive the current regime to be unjust and disproportionate in the burden it places on small business employers in complying with this regime, particularly in comparison to the benefits provided to tax revenue. Through improving the administrative arrangements of the regime, increasing the scope of FBT exemptions and undertaking structural reform of the FBT system in line with our recommendations, we seek to mitigate these compliance burdens on small business employers and create a fairer system for all.

²⁶ Commonwealth of Australia, *Budget Measures 2015-16: Budget Paper No. 2*, 12 May 2015.

²⁷ Above n 20, p 82.

²⁸ Australian Government Treasury, *Australia’s Future Tax System: Final Report* (2 May 2010)

<http://taxreview.treasury.gov.au/content/downloads/final_report_part_1/15_AFTS_final_report_chapter_12.pdf>.

Recommendation 8: Reform the FBT regime to make it fairer and reduce the disproportionate burden on small businesses, by:

- i. Improvement of administrative arrangements;
- ii. Increasing the scope of FBT exemptions; and
- iii. Undertaking structural reform of the FBT system.

e. Increase the current depreciation schedule amount

From 1 January 2014, small business taxpayers - being entities with a turnover of \$2 million or less – were entitled to an immediate income tax deduction for capital purchases of \$1,000 or less, whilst the special immediate deduction for motor vehicles was removed.²⁹ We note that changes that commenced on 1 July 2012 regarding a single general small business pool remained unchanged at 1 January 2014.

As part of its 2015-16 Budget Measures (Measures)³⁰, the Federal Government increased this immediate income tax deduction for capital purchases by small business taxpayers – still being entities with a turnover of \$2 million or less. Under these Measures, any capital purchases that cost less than \$20,000 are immediately deductible on the provision that they have been acquired and installed ready for use between 7:30pm (AEST) 12 May 2015 to 30 June 2017.³¹

We note that any capital purchases that cost \$20,000 or more are added to the single general small business pool, with the Measures providing that the closing balance of the pool is also immediately deductible if it is less than \$20,000.³²

The NTA supports these Measures introduced by the Federal Government and agrees that it will improve cash flow for small business taxpayers through a reduction in income tax liabilities and compliance costs. The NTA anticipates that this improved cash flow will provide a boost to the level of activity and investment undertaken by small business taxpayers within the tourism industry and foresees that this will provide the catalyst for more small business start-ups to enter the tourism industry.

f. Ensure sole traders and partnerships can benefit from any decrease to the company tax rate

Income derived by companies has generally been taxed at a flat rate of 30%, with no concessional income tax rates for small business taxpayers. On the other hand, income derived by unincorporated businesses (such as sole traders, partnerships or trusts) have generally been taxed in the hands of the individual at progressive marginal rates.

As part of its 2015-16 Budget Measures³³, the Federal Government announced that:

²⁹ *Minerals Resource Rent Tax Repeal and Other Measures Bill 2014*, sch 3.

³⁰ Commonwealth of Australia, *Budget Measures 2015-16: Budget Paper No. 2*, 12 May 2015.

³¹ *Ibid* p 19.

³² *Ibid*.

³³ Commonwealth of Australia, *Budget Measures 2015-16: Budget Paper No. 2*, 12 May 2015.

- The company tax rate for small business companies with a turnover of \$2 million or less will be reduced to 28.5%;³⁴ and
- Individual taxpayers with business income from unincorporated businesses (such as sole traders, partnerships or trusts) that have a turnover of \$2 million or less will be eligible for a small business tax discount of 5%.³⁵ This discount will be in the form of a tax offset available to these eligible individuals within their income tax return and will be capped at \$1,000 per individual per income year.³⁶

Both Measures are effective from 1 July 2015.³⁷

The NTA looks forward to the Federal Government extending these Measures for the benefit of entities with a turnover of \$2 million or more in order to deliver on its proposal to deliver taxes that are 'lower, simpler and fairer'.³⁸

The NTA supports these Measures introduced by the Federal Government and the NTA agrees that both Measures will improve cash flows for small business taxpayers through a reduction in income tax liabilities which will in turn increase their capacity to engage within the economy.

³⁴ Commonwealth of Australia, *Budget Measures 2015-16: Budget Paper No. 2*, 12 May 2015, page 19.

³⁵ Ibid p 20.

³⁶ Ibid.

³⁷ Above n 33.

³⁸ Commonwealth of Australia, *Budget 2015: Tax cut for small companies* (12 May 2015), Australian Government Budget 2015 <http://budget.gov.au/2015-16/content/glossy/sml_bus/html/sml_bus-06.htm>.

2. ENCOURAGE GROWTH IN TOURISM AND HOSPITALITY

The Government and wider economy benefit from an industry that is freed from excessive regulation and unfair or inconsistent taxes, and is therefore able to increase its commercial activities. The Government and economy benefit through higher revenues from taxes on profits, income, land and payroll, and downstream effects of higher tourism spending. Lower costs for tourism businesses also encourages higher overall spend by visitors, who have more disposable spending money. International and domestic tourists and business travellers spend an average of \$270 million a day in Australia. Tourism's output multiplier is valued at 1.92, which means for every dollar tourism earns directly in the Australian economy, it value adds an additional 92 cents to other parts of the economy. At 1.92, tourism's multiplier is larger than mining (1.66), retail trade (1.81) and education and training (1.38)³⁹.

a. Reducing taxes on Australians and international travelers in Australia

i. Tourism is already highly taxed

The industry seeks a commitment to having no new taxes or charges levied on tourism and hospitality. This is essential in order to alleviate the significant tax burden borne across the Australian visitor economy. Tourism is affected by a range of taxes, including payroll taxes, the Passenger Movement Charge (PMC), visa fees and aircraft noise levies to name a few, as well as being the only export industry to be subject to the GST.

Although tourism is extremely valuable to the Australian economy, it also bears a significant tax burden, with net tourism taxation in 2003/04 of \$6,922 million (equating to 19.6 per cent of tourism gross domestic product).⁴⁰ With one price elasticity estimate of -0.8⁴¹, tourism is extremely sensitive to taxes and regulatory burdens. Fundamental to the ongoing success of the tourism sector is the need to remove unnecessary barriers arising from taxation and regulatory regimes.

The most recent detailed research on tourism taxes was undertaken by the Sustainable Tourism Cooperative Research Centre (CRC) relating to the 2003/04 year. It identified that net revenues from tourism taxation can be divided into three streams: State Taxes, Federal Taxes and GST⁴².

Figure 1 below provides a breakdown of taxes levied on the tourism industry, broken down by level of Government.

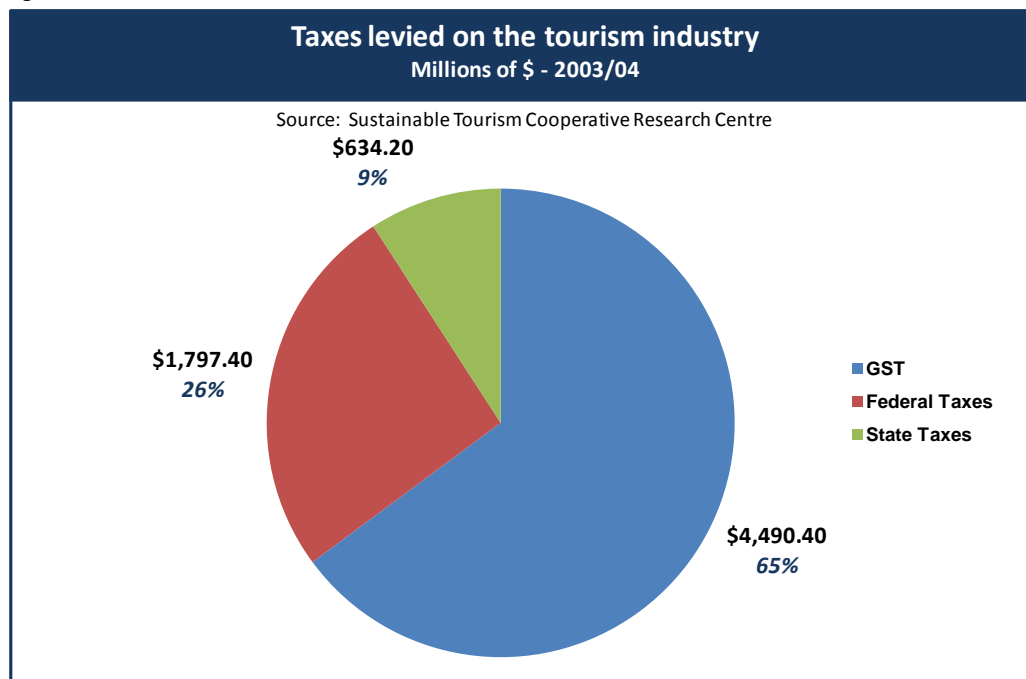
³⁹ Tourism Research Australia

⁴⁰ Sustainable Tourism Cooperative Research Centre, *State and Federal Taxes on Tourism in Australia – estimate for 2003/04*

⁴¹ Geoff Carmody and Associates, *Australian Tourism: How Deep the Recession*, March 2009, p 58-59

⁴² Sustainable Tourism Cooperative Research Centre, *State and Federal Taxes on Tourism in Australia – estimate for 2003/04*

Figure 1 – Total taxes levied on tourism, 2003/04



As Figure 1 demonstrates, GST is by far the largest contributor to tourism tax revenue, accounting for \$4,490.40 million.

For every \$100 of tourism expenditure in Australia, \$9.10 is paid to Federal, State or Local Governments in revenues net of any subsidies provided. Each \$9.10 of net tax revenue is comprised of:

- i. State taxes on production **(\$1.10)**
- ii. State taxes on products **(\$0.90)**
- iii. State subsidies on products **(-\$1.20)**
- iv. Federal taxes on production **(\$0.20)**
- v. Federal taxes on products **(\$2.30)**
- vi. Federal subsidies on products **(-\$0.10)**
- vii. GST **(\$5.90)**

Recommendation 9: The Government should commit to no new taxes on the tourism industry, and review the industry's proposals for alternative revenue sources and cost recovery (refer section (b) below).

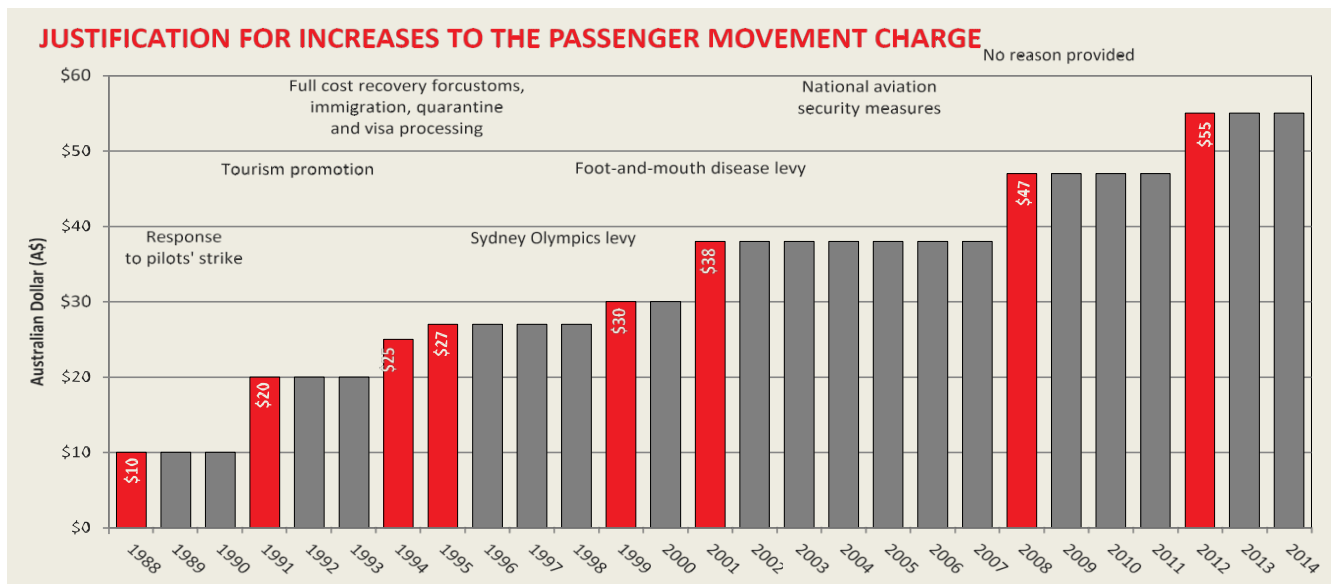
b. Border Fees and Taxes

The industry welcomed the Government's commitment to freeze the Passenger Movement Charge at \$55.00 for the current term of Parliament.

i. Passenger Movement Charge

The Passenger Movement Charge (PMC) is a Commonwealth tax introduced in the 1995 budget levied on passengers departing Australia, replacing the departure tax. The Labor government at the time initially introduced the tax to recoup the full accrual costs of Customs, Immigration and Quarantine (CIQ) processing for international passengers and the cost of issuing short-stay visitor visas. However, collection from the PMC now exceeds these costs, and it is the amount of over-collection that represents a disproportionate tax burden on the tourism industry.

Recognised as an excise tax since 1996, the official hypothecation of the tax continued until 2001, when the federal government conceded that the PMC had moved beyond cost recovery and was a contributor to consolidated revenue⁴³. That year the then-Department of Finance and Administration admitted an over-recovery of around \$80 million, created by the non-removal of the \$3 per passenger additional levy to cover Sydney Olympics passenger processing⁴⁴. Successive governments have since raised the PMC rate, often using aviation security or health pandemics as justification. None of the rate rises has been reversed.



⁴³ Auditor-General, "Audit Report No. 12 2000-2001 Performance Audit Passenger Movement Charge", Canberra, 2001

⁴⁴ Darryl Williams, Press conference by the Attorney General, Hon Daryl Williams AM QC MP, 18 December 2001, 2001

Government revenue from the PMC is now significantly more than the amount required to fund the Australian Customs and Border Protection Service's passenger facilitation programme. Income from the PMC, visa fees and fines and passport fees in 2014/15 was \$3 billion, with concomitant expenses of \$1.7 billion⁴⁵.

Narrow-based taxes such as the PMC can particularly affect key tourism services, with production and consumption being highly mobile and subject to consumer preference. A significant part of tourism is dependent on a price-sensitive market and additional costs imposed on tourists have a significant impact on the competitiveness of Australian tourism in the global marketplace.

Instead of funding passenger processing at airports and seaports as originally designed, the PMC has become, in the view of the Centre for Economics and Policy Study, "a transfer payment from tourism to non-tourism industries (as) an additional export tax, on top of existing taxes that international tourists pay⁴⁶". The PMC collects approximately 60 per cent more funds than required to cover the costs of its stated purpose, making it a general taxation measure rather than simply a cost recovery measure, and is a unfair impost that makes Australian tourism less competitive in global terms.

ii. Create New Products

In its submission to the Review of Border Fees and Charges earlier this year, the industry stated that by using a new holistic model that takes into account a number of charges and services, new products could provide sources of revenue that would offset reductions in the PMC. Each can also make a difference in improving the customer satisfaction perceptions of visitors to Australia as they enter or leave our country.

The Australian Customs and Border Protection Service already performs well by international standards when measured for customer satisfaction. The percentage of passengers processed within 30 minutes of joining the inwards queue reached 93.7 per cent so far this year, compared with a global benchmark of 85 per cent.

However, border agencies in Asia and the Middle East in particular are redefining the passenger experience at government checkpoints. Automation is making formalities less intrusive while simultaneously more secure for governments.

To ensure that any new fees and charges regime complies with international conventions and Australian guidelines on cost recovery, any new regime should be reviewed to ensure compliance. The model for this is the US series of departure and arrival charges, which are charged under the Airport and Airway Trust Fund revenue model to ensure the funds generated do not flow back to the general treasury⁴⁷.

⁴⁵ Budgeted Expenses for Outcome 2 (passport and consular services), Department of Foreign Affairs and Trade Annual Report 2013-14; Australian Quarantine Inspection Service Special account, Department of Agriculture Budget Statements 2014-15; Programme Component Expenses for Outcome 1, Department of Immigration and Border Protection Budget Statements 2014-15, Estimate for passenger facilitation based on Australian Customs and Border Protection Service Budget Statement 2012-13 with annualised programme reduction forecast

⁴⁶ Australian Tourism Export Council, "The Importance of the Working Holiday Visa (Subclass 417)", Sydney 2012

⁴⁷ US Department of State, "Taxes" and Fees Associated with Air Travel", Washington DC, 2009 (online)
<http://www.state.gov/ofm/resource/imp/tax/20129.htm>

The existing Australian border fees model does not allow for innovation in product delivery. There are several new initiatives the tourism industry believes our border agencies should be prioritising, enabled by a new model developed that allows government to charge a commercial rate for premium products at a market-defined rate. The launch of such products would enhance the customer experience of those high net worth travellers who would avail themselves of premium services. We would expect this new revenue source would allow for a reduction in the rate of the PMC for price-sensitive short-haul routes and visitor visa application fees for ordinary travellers from Asia.

Potential new products include premium border processing for high-yield travelers, off-terminal border processing, automated departure controls at major airports using cutting edge technology, the digitisation of outgoing and inbound passenger cards, a user-pays premium visitor visa processing model, small, flexible border processing teams for regional airports, and passport cards for travel to those countries that do not require visas from Australian leisure travellers, chiefly New Zealand, the European Union and Singapore.

Recommendation 10: No further increase to the PMC, and for a new holistic model to be developed that allows government to charge a commercial rate for premium products at a market-defined rate. This holistic approach would create a new, fairer regime that is responsive to price sensitivity and open to new product innovation, and will enable the PMC and visa charges to be reduced.

iii. Tourist Visa Charges and Processes

The tourism industry is concerned that visa fees should be set at levels that represent a cost-recovery fee only, and that do not result in an over-collection (as is currently the case) compared with processing costs.

Visa fees should not exceed the cost of providing essential border protection and immigration services to international visitors and Australian residents. Visa fees (or portions of visa fee revenue) that are levied for the purpose of general revenue collections constitute an unreasonable tax on tourism, and make Australia increasingly less competitive in the global tourism market.

Visitors from many high-yield markets such as India and China (not on the Electronic Travel Authority (ETA) eligible countries list) generally arrive on a tourist visa – subclass 676. Applying for such a visa can be complex and costly. Existing visa requirements mean a Chinese independent traveller faces a fee of \$130, has to produce considerable evidence, complete a 15-page paper-based application and wait up to 15 days for processing. Similar barriers impact potential visitors from India, Indonesia and Vietnam.

For visitors from eligible countries on the ETA list, a \$20 processing fee is still payable for Australia. It is of interest that many countries in the region (for example, Singapore and Hong Kong) that compete for Asia-Pacific visitor spend do not impose such a fee for visitors from eligible countries. The industry has welcomed the online visa processing trials that the Government has announced for the Chinese and Indian visitors. This is the type of reform that will assist Australia to remain competitive in these two important growth markets, where Australia already has a demonstrated attraction.

In 2014/15 the Department of Immigration and Border Protection estimates its income from fees and fines to be \$1.7 billion⁴⁸. Over the same period, its expenses for all permanent migration and temporary entry programs, including border management and visa processing, will reach \$872 million. As is the case with the passenger movement charge, the industry is concerned that these charges are being used as a source of general revenue rather than being based on true cost recovery principles.

With evidence mounting around the world on the economic benefits of eliminating visa restrictions, governments are examining ways in which to reduce or remove the barriers⁴⁹. For example, South Korea spotted an opportunity, in 2008; to break away from the pack of developed countries and offer visa free travel for Chinese nationals, first to its resort island Jeju, then more widely across the whole country. The result of the visa waiver scheme was immediate and impressive: In 2009 Chinese arrivals to South Korea grew 64.5 per cent above 2005 levels. By 2011 South Korea had become China's most popular overseas destination with more than two million Mainland Chinese visitors⁵⁰.

Elsewhere, too, other countries are remodelling their visa regimes in light of this growing evidence of the damage such policies do to inbound tourism flows. The cost of data profiling has dropped exponentially, making the cost recovery exercise in collecting and analysing data on foreign nationals a less compelling reason to retain high fees and charges than in the last century. Underscoring this point, India announced in February that it is to replace traditional visa applications with Australian-style electronic travel authorities to citizens of almost every country, thanks chiefly to the roll-out of its new passenger data profiling tool⁵¹. The result, in the first six months was impressive, with a 28.9 per cent increase in the number of visitor visas issued in September 2014 compared to September 2013⁵².

As the Korean example has demonstrated, the concept of visa-free travel or visa-on-arrival is gaining traction in a number of countries as they seek to differentiate themselves in the competitive global tourism market. Indonesia and India have recently commenced this process, and other countries such as Malaysia, Thailand and Singapore already have this in place. Recently, under the World Cup arrangements, New Zealand will grant a three-month visa on arrival to visitors holding an eligible Australian visa during the event period. This has meant that visitors have only had to apply for an Australian visa, and both countries have still maintained relevant health and security requirements. The industry welcomed the flexibility and innovation of this arrangement, and it provides a model for a new holistic approach that maintains the integrity of the system.

Recommendation 11: Visas fees to be based on true cost recovery, and a regular review process to be implemented to prevent future over-collections.

Recommendation 12: Remodel Australia's visa regime in line with global best practice and key competitor markets, to remain competitive whilst maintaining the integrity of the system.

⁴⁸ Commonwealth of Australia, "Portfolio Budget statements 2014-15. Budget Related paper No 1.11 – Immigration and Border Protection Portfolio", Canberra, 2014

⁴⁹ Eric Neumayer, "Visa Restrictions and Bilateral Travel", *The Professional Geographer*, vol. 62, no. 2, 2010

⁵⁰ World Tourism Organization and World Travel & Tourism Council, "The Impact of Visa Facilitation on Job Creation in the G20 Economies", Madrid, 2012

⁵¹ BBC News India. (2014, February) BBC News India.(online) <http://www.bbc.com/news/world-asia-india-26062351>

⁵² UN Sushma, "28.9% increase in issuance of visa on arrival", *The Times of India*, October 2014. (online) <http://timesofindia.indiatimes.com/business/india-business/28-9-increase-in-issuance-of-visa-on-arrival/articleshow/44869964.cms>

c. Reform Australia's Tourist Refund Scheme to allow competition by private refund operators

Reform to the Tourist Refund Scheme has the potential both to save the cost to the Government, and provide a high quality shopping experience for visitors. This improvement to Federal Government productivity and efficiency could be achieved through the outsourcing of certain functions currently being undertaken by the Commonwealth.

Australia's TRS is currently administered by the Australian Customs and Border Protection Service (Customs) on the behalf of the Australian Taxation Office (ATO). As such, Government meets 100 per cent of the administrative costs associated with providing this service to departing international travellers. This is an antiquated practice by international standards. In other countries, governments predominantly outsource TRS administration to experienced private sector operators, with travellers meeting the cost of the scheme through a commission levied on the GST refund amount.

TRS reform has been on the Federal Government's agenda for more than five years. The NTA supports the Tourism Shopping Reform Group (TSRG) in its calls to implement key enhancements to tourism shopping arrangements in Australia.

The TRS should be opened up to private operators, as is the case in 42 other countries, allowing for a more cost effective and efficient refund processing scheme. Australia currently lags behind many other countries around the world, where private providers operate a more efficient TRS. Australia is one of four countries that still operate a Government-run TRS, along with Thailand, Indonesia and Taiwan.

A private provider platform will enable innovations that can enhance Australia as a tourism shopping destination, helping to increase the yield by international visitors whilst in Australia. Private refund providers in tourism destinations are fundamental in the promotion of shopping as a key aspect of the tourism experience for international travellers. Australia would be better placed to compete with our Asia-Pacific neighbours who already reap the benefits of private refund providers, who actively market the destination's shopping opportunities directly to prospective international travellers within their home countries. The current government-run scheme is unable to do this.

Industry is not calling for any structural changes to TRS entitlements (such as an adjustment to the minimum claim threshold). Enhancements to the current arrangements would allow private providers' entry to the TRS. Unlike the current scheme administered by Customs, private refund providers will have the incentive to actively market the TRS as a service offered to international travellers. As such, private providers will affiliate with Australian retailers and promote retail shopping directly to international travellers through their existing marketing channels throughout the world.

These activities will drive tourist shopping and product development to international visitors and allow reimbursement while visitors are still in Australia. Economic modelling commissioned by the TSRG demonstrates that a doubling of the current TRS take up rate of 3.6 per cent of all departing international travellers to 7 per cent will result in considerable additional activity in the visitor economy. The modelling demonstrates that this small enhancement has the ability to generate an additional \$226 million of visitor economy expenditure, and attract an addition 18,000 international visitors to Australia per year.

Furthermore, changes to the operation model for Australia's TRS will reduce administrative costs to Federal and State taxpayers, and enhance the tourism shopping experience in Australia. A digital TRS system, as was recently introduced in Singapore, will improve customer service, enhance fraud protection and provide savings for the Australian Customs and Border Protection Service (Customs). The potential cost savings derived from outsourcing the TRS to private operators warrants closer examination.

Reforming the TRS by allowing private providers into the market meets with the Government's National Commission of Audit aim to 'identify areas or programs where Commonwealth involvement is inappropriate or no longer needed' and to 'improve the overall efficiency and effectiveness with which government services are delivered'.

TRS reform will enable the 'adoption of new technologies in service delivery and within government' and 'rationalising the service delivery footprint to ensure better, more productive and efficient service for stakeholders'.

The proposed TRS reform also meets the Commission of Audit's remit to 'identify options for continuous assessment of programs, agencies and performance'. Furthermore, it is an area that falls within the Commission's goal to 'identify where there remains a compelling case for the activity to continue to be undertaken; and if so, whether there is a strong case for continued direct involvement of government, or whether the activity could be undertaken more efficiently by the private sector, the not-for-profit sector, the States or local government'. Importantly, this reform will enable Australia to 'catch up' with other countries around the world that have long-realised the benefits of industry providing this service rather than government. Whilst government will retain responsibility for export verification functions, industry is far better placed to efficiently provide refunds to the traveller.

Recommendation 13: Reform the tourist refund scheme to allow competition by private refund operators.

d. Removing impediments to investment in tourism and accommodation

Tourist Research Australia's Tourism Investment Monitor 2015 notes that many projects do not progress from planning to approval and construction. This could adversely affect the pace of new investment needed to accommodate the expected increase in visitors shown by the ABS Overseas Arrivals and Departures figures.

The Government-commissioned L.E.K Consulting Report of August 2011 identified several reasons why Australia's tourism industry suffers from a lack of investment in new short term accommodation supply as well as limited refurbishment of existing stock, which is particularly notable in regional areas.

Amongst many factors, they identify that the investment case for hotels in metropolitan areas is challenged as land is scarce and residential and commercial properties offer higher returns. Residential properties built under the Class 2 provisions of the Building Code are also able to enter the short term accommodation market with lower build requirements, and are subject to different tax treatments. Construction costs for hotels are therefore significantly higher than serviced apartments, and often the necessary R.O.I. is not achieved in the short term.

L.E.K Consulting recommends the following incentive as a means of overcoming barriers to investment for tourism accommodation: a 50 per cent capital works deduction bonus, with the remaining 50 per cent spread over 12.5 years at 4 per cent to stimulate investment in new developments as well as refurbishments for short term accommodation operators.

Reforms to the Building Code where tourist developments are disadvantaged would also free up potential investment in accommodation properties. The results of the independent review of the accessibility standards under Class 2 and Class 3 for new buildings should inform the Review of the Premises Standards 2010, currently underway. The industry understands the Tourism Ministers' Meeting has committed to this action and welcomes this commitment.

Once the accessible room standards are reviewed, new apartments that are to be used for short term accommodation and hotels should be treated consistently in respect of building requirements to ensure there is a level playing field.

Recommendation 14: A 50 per cent capital works deduction bonus, with the remaining 50 per cent spread over 12.5 years at 4 per cent to stimulate investment in new developments as well as refurbishments for short term accommodation operators.

Recommendation 15: Reforms to the Building Code where tourist developments are disadvantaged, and new apartments that are to be used for short term accommodation and hotels should be treated consistently in respect of building requirements.

e. A fairer and more efficient approach to taxing land

As discussed above, the development of short term accommodation product is inhibited by regulatory and taxation regimes that discriminate against land use and development for tourism and accommodation purposes.

Investment in tourism and hospitality is also affected by inconsistent application of land taxes⁵³ and stamp duties⁵⁴ across the States, which can impact business decisions in an inefficient way.

The NTA supports a review of current land tax and conveyancing stamp duty regimes and their replacement with a broad-based land tax. State land tax should be overhauled and harmonised so as to deliver a transparent, consistent and fair approach to land taxation, as there is currently an inconsistent application of land taxes, which are levied differently based on types of property holdings. States often use land tax concessions as financial incentives on a selective basis for major investments, which can affect investment decisions depending on what type of development receives the incentive.

Recommendation 16: Review current land tax and conveyancing stamp duty regimes and replacement with a broad-based nationally consistent land tax.

⁵³ <http://www.business.gov.au/business-topics/tax-finance-insurance/taxation/Pages/land-tax.aspx>

⁵⁴ <http://www.business.gov.au/business-topics/tax-finance-insurance/taxation/Pages/stamp-duty.aspx>