



Restaurant
& Catering

Re:think

Response to the tax discussion paper

MAY 2015

RESTAURANT & CATERING AUSTRALIA

Restaurant & Catering Australia (R&CA) is the national industry association representing the interests of 35,000 restaurants, cafes and catering businesses across Australia. R&CA delivers tangible outcomes to small businesses within the hospitality industry by influencing the policy decisions and regulations that impact the sector's operating environment.

R&CA is committed to ensuring the industry is recognised as one of excellence, professionalism, profitability and sustainability. This includes advocating the broader social and economic contribution of the sector to industry and government stakeholders, as well as highlighting the value of the restaurant experience to the public.



TABLE OF CONTENTS

EXECUTIVE SUMMARY	4
RECOMMENDATIONS	5
THE TAX SYSTEM & THE HOSPITALITY SECTOR	6
Tax contributions of the tourism and hospitality sector	6
Small business is big business	6
Employment growth in the tourism and hospitality sector	7
AT A GLANCE: The contribution of the café, restaurant and catering sector in australia	8
TAXATION & COMPLIANCE REFORM	9
Payroll tax	9
Fringe Benefit Tax	10
Goods and Services Tax	12
Superannuation Guarantee Scheme	14
CONCLUSION	15

EXECUTIVE SUMMARY

Restaurants, cafes and hospitality providers are an important part of Australia's economic and social fabric. The food and beverage services sector is the single largest employer across all tourism-related sectors of the visitor economy. In June 2013, there are 266,649 tourism and hospitality businesses in Australia, of which 94.7 per cent were characterised as self-employed, micro or small businesses. Café, restaurant and takeaway food service businesses represent the largest number of tourism-related businesses in Australia with approximately 58,500 businesses operating across the country.

Tourism has been identified as one of Australia's five super growth industries – second only to gas – with the sector expected to grow more than 10 per cent faster than global gross domestic product. Australia's top five super growth industries including tourism have the potential to deliver an additional \$250 billion to the national economy over the next 20 years if these growth projections are realised.

Tourism and hospitality businesses generate significant tax revenue for the Australian government. In 2013-14, the visitor economy generated \$11.0 billion in taxes. Research indicates that each Australian household would have paid an additional \$1,207 in taxes without the tax revenue raised by the tourism and hospitality industry.

Yet service businesses such as restaurants bear a disproportionate tax burden due to their labour intensity and customer service focus. Payroll tax, PAYG, superannuation, and income tax obligations all represent a greater proportion of revenues compared to small businesses operating in other sectors.

In addition, restaurants, cafes and caterers face considerable complexity in determining and claiming GST credits, as GST only applies to a proportion of their inputs. Add to this the complexities around Fringe Benefits Tax, and the cost of tax compliance becomes overwhelming and time consuming for small business operators.

Recognising the labour intensity of the sector and the predominance of small businesses operating in the hospitality industry, R&CA has summarised key reforms to sections of the taxation system which would provide the greatest benefit to these operators. This includes exempting small business from Fringe Benefit Tax, removing the requirement to pay superannuation to Working Holiday Makers, and raising the Superannuation Guarantee Threshold to \$600 per month.

These reforms will cut administrative red tape, improving the productivity of small businesses and allow them to focus on growing their business.

RECOMMENDATIONS

PAYROLL TAX

- Increase the payroll tax threshold and harmonise this quantum across the states and territories with the longer term objective of abolishing payroll tax altogether.

FRINGE BENEFIT TAX

- Small businesses with an annual turnover less than \$2 million should be exempt from paying FBT entirely under the *Small Business Entity* concessions.

GOODS AND SERVICES TAX

- R&CA supports the broadening of the GST to include fresh food and produce, to allow for the removal or abolition of less efficient taxes, while reducing the compliance burden on hospitality operators in determining GST credits in their business.

SUPERANNUATION

- Remove the requirement to pay superannuation to overseas workers including Working Holiday Makers.
- Raise the Superannuation Guarantee Threshold to \$600 per month (\$1800 per quarter) and index to CPI.

THE TAX SYSTEM & THE HOSPITALITY SECTOR

Tax contributions of the tourism and hospitality sector

The restaurant, café and catering sector forms a critical component of the visitor economy. The visitor economy is defined as the direct and indirect value generated from the provision of tourism-related goods and services¹. Consumption across the visitor economy (including the broader hospitality sector) totalled \$132 billion in 2013-14². Cafés, restaurants and catering services contributed \$23.8 billion in earnings to the national economy, \$17.6 billion of which was directly attributed to the visitor economy³. In 2013-14, the visitor economy generated \$11.0 billion in taxes for Australia⁴. Research indicates that each Australian household would have paid an additional \$1,207 in taxes without the tax revenue raised by the tourism industry⁵.

Small business is big business

In June 2013, there were 266,649 tourism businesses in Australia, of which 94.7 per cent were characterised as self-employed, micro or small businesses. The largest contributor was the café, restaurant and takeaway food services sector, representing approximately 58,500 businesses (or 20 per cent of all tourism businesses). Ninety three per cent of café, restaurant and takeaway businesses are self-employed, micro or small businesses⁶.

Tourism Satellite Account data published in Tourism Research Australia's *Tourism Businesses in Australia* report indicates that tourism is a labour-intensive industry, driven by higher labour costs. The report demonstrates that as an industry, with a high share of micro and small businesses, the Gross Value Added (GVA) per employee is low. The average GVA for an employee in a tourism business is approximately \$65,000, much lower than the average of \$119,000 for all industries⁷. As a result, payroll tax and superannuation obligations place a higher compliance cost burden on smaller businesses operating in this sector.

¹ The Travel & Tourism Competitiveness Report 2009 World Economic Forum

² Tourism Research Australia (TRA), *Tourism State Satellite Account 2013-14*, Table 8; ABS (2015) *8501.0 Retail Trade Australia – March 2015*

³ Tourism Research Australia (TRA), *Appendix: State Tourism Satellite Account 2013-14*, Table 8

⁴ Tourism Research Australia (TRA), *Appendix: State Tourism Satellite Account 2013-14*, Table 10

⁵ Tourism & Transport Forum (2014) *Tourism and the Australian Economy: State & Territory Visitor Economy Impacts, 2012-13 Edition*

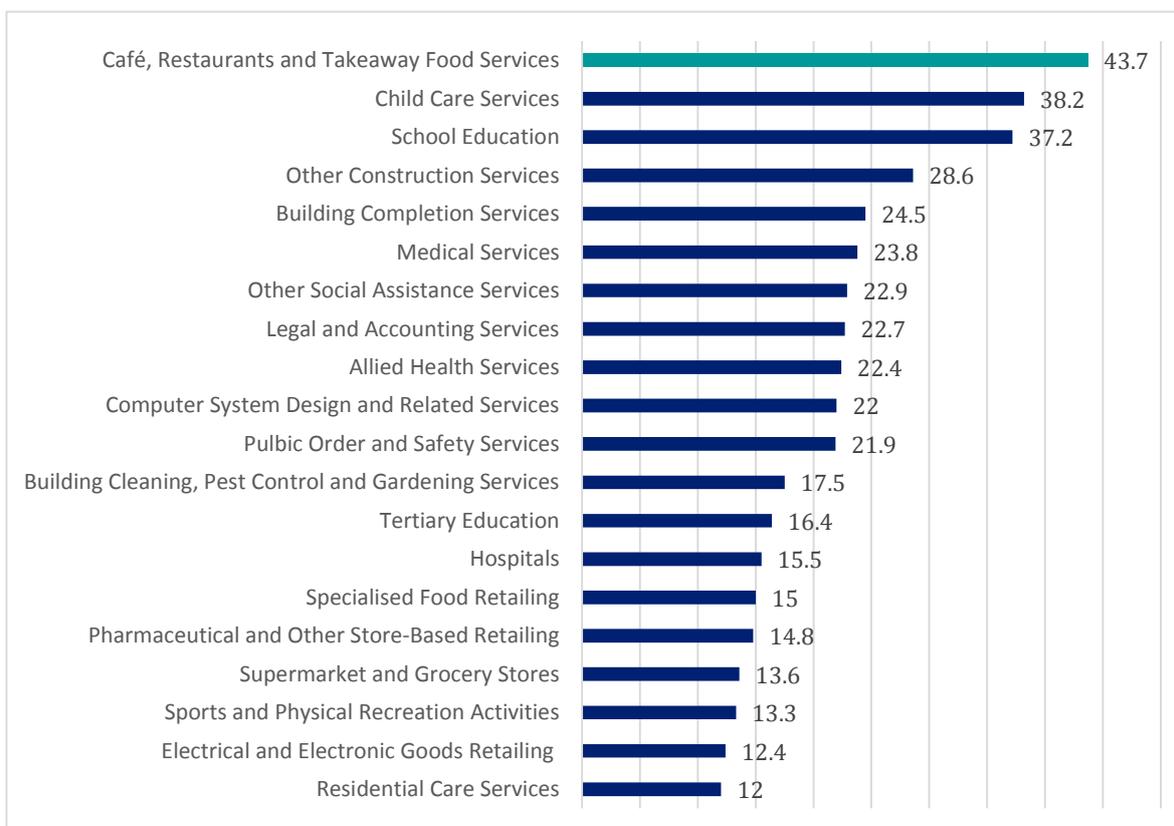
⁶ Tourism Research Australia (2015) *Tourism Businesses in Australia, June 2010 to June 2013*

⁷ Tourism Research Australia (2013) *Tourism Businesses in Australia, June 2010 to June 2012*, p1

Employment growth in the tourism and hospitality sector

Service Skills Australia's *Tourism, Travel and Hospitality Environmental Scan 2014* highlights that strong domestic demand and a growing tourism base is expected to lead to phenomenal employment growth in the visitor economy over the next five years, particularly in the café, restaurant and takeaway food sector⁸. Employment growth in this sector will exceed any other in the Australian economy, with an expected growth of 43,700 workers, or an increase of 8.5 per cent⁹ (See Figure 1). These forecasts are further supported by projections released by the Department of Employment that indicate the accommodation and food services sector alone has a projected five-year employment growth rate of 7.1 per cent, requiring an additional 55,200 workers by November 2018¹⁰. These projections will have significant implications for the visitor economy in Australia, particularly with regards to labour-based taxes including payroll tax.

Figure 1: Top 20 industry sectors ranked by projected growth to November 2017 ('000s)



Source: Department of Employment, 2013, *Employment Outlook to 2017*

⁸ Service Skills Australia (2013) *Tourism, Travel and Hospitality Environmental Scan 2014*, p.21 updated with figures from the Department of Employment (2014) *2014 Employment Projections, Industry projections to November 2018*

⁹ DEEWR (2012) *Employment Outlook to 2017*, p.3-4

¹⁰ Department of Employment (2014) *2014 Employment Projections, Industry projections to November 2018*

AT A GLANCE: THE CONTRIBUTION OF THE CAFÉ, RESTAURANT & CATERING SECTOR IN AUSTRALIA

THE SECTOR CONTRIBUTES
\$23.8 BILLION TO THE
AUSTRALIAN ECONOMY



CONTRIBUTES
\$14.6 BILLION TO
NATIONAL GROSS
VALUE ADDED

AND \$4.4 BILLION DIRECTLY
TO TOURISM GVA



THE SECTOR
EMPLOY 529,500 PEOPLE

WITH THIS NUMBER EXPECTED TO INCREASE TO 560,800 BY 2018



58,500

CAFÉ, RESTAURANT,
& CATERING BUSINESSES
IN AUSTRALIA

93% ARE SMALL BUSINESSES



TOURISM
GENERATES
\$11.0 BILLION
IN TAX REVENUE

AUSTRALIAN HOUSEHOLDS WOULD PAY
AN ADDITIONAL \$1,207 IN TAXES
WITHOUT THE REVENUE GENERATED
FROM THE TOURISM SECTOR.

TAXATION & COMPLIANCE REFORM

Payroll tax

One of the greatest tax reform priorities for the Australian economy must be payroll tax. As a labour intensive industry, hospitality businesses bear a disproportionate burden of state taxation through the payroll tax system. R&CA's *2014 Industry Benchmarking Report* revealed that staff wages and on-costs (including payroll tax and superannuation) can represent up to 45.3 per cent of business expenses¹¹.

The Henry Tax Review into *Australia's Future tax system* considered payroll tax to be a consistent and dependable tax base, but highly inefficient due to tax-free thresholds, exemptions and complexity across state borders (as highlighted in Table 1). The payroll tax threshold acts as an artificial deterrent from business expansion and employment growth, as compliance and payroll tax costs act as incentive for businesses to remain inefficiently small¹².

Table 1: Comparable Payroll Tax thresholds and rates of the state and territories

Payroll Tax Scales									
	NSW ^(a)	VIC	QLD ^(b)	WA	SA	SA ^(c) (w rebate)	TAS ^(d)	ACT	NT ^(e)
Basic rate	5.45%	4.85%	4.75%	5.50%	4.95%	4.95%	6.10%	6.85%	5.50%
Tax-free threshold	\$750,000	\$550,000	\$1,100,100	\$800,000	\$600,000	\$600,000	\$1,250,000	\$1,850,000	\$1,500,000

(a) A \$5,000 rebate is provided over two years for each additional FTE created and maintained by an employer over that period.

(b) For payrolls \$1.1 million to \$5.5 million, deduction of \$1.1 million reducing by \$1 for every \$4 payroll exceeds \$1 million. No reductions for payrolls over \$5.5 million

(c) A small business payroll tax rebate of 2.45 per cent applied to payrolls in 2012-13 and 2013-14 between \$0.6 million and \$1.1 million, then reduced by 0.5 percentage points for every additional \$50,000, with no rebate provided on payrolls above \$1.2 million.

(d) A rebate will be provided for all new full or part-time position created between 10 December 2012 and 30 June 2014 (maintained until 30 June 2015)

(e) For payrolls \$1.5 million to \$7.5 million, deduction of \$1.5 million reducing by \$1 for every \$4 payroll exceeds \$1.5 million. No deductions for payrolls over \$7.5 million.

The Henry Review found that payroll tax is the third most inefficient tax after royalties and crude oil excise and insurance taxes, which cause in excess of 40 cents of economic damage for every dollar of

¹¹ R&CA (2014) Industry Benchmarking Report, Financial Results 2012-13

¹² Australian Chamber of Commerce and Industry (2014) *Board of Taxation Review: Tax Impediment facing small business*, May 2014

additional revenue raised¹³. The Henry Review recommends that state payroll taxes should be replaced with revenue from more efficient broad-based taxes that capture the value-add of labour¹⁴.

R&CA believes ultimately abolishing payroll tax is necessary in order to ensure small businesses remain competitive. However, increasing the payroll tax threshold and harmonising this quantum across the states and territories would go some way in reducing the compliance cost for small- to medium-sized hospitality operators while the longer term objective of abolishing payroll tax is realised.

Recommendation

- Increase the payroll tax threshold and harmonise this quantum across the states and territories with the longer term objective of abolishing payroll tax altogether.

Fringe Benefit Tax

R&CA has long argued for changes to the Fringe Benefits Tax (FBT) system, recognising the compliance cost to small business is proportionately higher than for large corporations. This argument has centred on the inequity that exists in the ability of small businesses to employ strategies to avoid FBT compared to big business (i.e. big business is able to use strategies to avoid FBT, such as boardroom catering).

In a 2007 report on the compliance costs of FBT on small business it was found that *'while very few small businesses pay fringe benefits tax, some small businesses undertake considerable compliance activities in order to avoid being included in the FBT system'*¹⁵.

In addition, research conducted by PricewaterhouseCoopers found 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 per cent'*¹⁶. This means that the cost to small business in complying with FBT is a staggering \$0.31 for every \$1.00 in FBT paid to the Australian Government.

¹³ Commonwealth of Australia (2010) *Australia's future tax system – Report to the Treasurer* December 2009 Part One Overview, p.13 as quoted in Australian Chamber of Commerce and Industry (2014) *Board of Taxation Review: Tax Impediment facing small business*, May 2014

¹⁴ Commonwealth of Australia (2010) *Australia's future tax system – Report to the Treasurer* December 2009 Part One Overview

¹⁵ Commonwealth Government of Australia (2007) *Scoping study of small business tax compliance costs - A report to the Treasurer*, Dec 2007

¹⁶ PriceWaterhouse Coopers (2009) *Small and Medium Enterprises Total Tax Contribution Report*, December 2009, p.8

The following table demonstrates the minimal FBT revenue collected from small business:

Table 2: Micro-businesses: Taxpaying profile, 2004-05

Taxpayers and \$ tax liability						
	Income Tax		Goods & Services Tax		Fringe Benefit Tax	
	No. of entities	\$ million	No. of entities	\$ million	No. of entities	\$ million
Individuals	1,532,079	16,034	924,524	1,071	214	1
Partnerships	368,200	0	320,708	14,525	452	2
Trusts	215,431	0	188,550	1,755	3,565	22
Companies	689,915	6,227	573,228	3,607	18,036	122
Total	2,805,625	22,261	2,007,010	7,958	22,267	147

Source: ATO. Based on tax returns processed to 18 May 2007 for entities that have lodged their 2004-05 income tax return. Data is rounded to nearest \$ million. The GST turnover threshold was \$50,000 in 2004-05.

The hospitality sector is further affected by the FBT system due to the treatment of restaurant meals as employee fringe benefits, as opposed to a legitimate form of doing business. R&CA in its submission to the Henry Tax Review as well as the 2007 Treasury study on small business tax compliance costs highlighted that there are 39 different ways to classify a business meal for taxation purposes.

In a report prepared by Access Economics, it was found that FBT on business meals is overly complex and distorts market decisions. FBT on business meals over taxes 87 per cent of the Australian population, with 23 per cent of revenue collected being expended on compliance¹⁷.

Further concerns have also arisen in the sector over the implications of the \$5,000 cap on salary sacrificed meal entertainment and facility leasing expenses announced in the 2015-16 Federal Budget.

On the basis of the compliance cost and lack of access to strategies to minimise the burden of FBT, R&CA argues that small businesses should be exempt entirely from FBT under the *Small Business Entity* concessions. Small businesses with a turnover of less than \$2 million currently receive concessions on FBT for car parking; R&CA contend these concessions should be extended to include all FBT.

Recommendation

- Small businesses with an annual turnover less than \$2 million should be exempt from paying FBT entirely under the *Small Business Entity* concessions.

¹⁷ R&CA (2001) *The Case for, and Economic effects of, Part-recognition of business entertainment as legitimate business inputs or expenses for taxation purposes* prepared by Access Economics.

Goods and Services Tax

Since the delivery of the 2014-15 Federal budget, discussions have arisen over the broadening of the Goods and Services Tax (GST) to include fresh food and produce.

The Tax Discussion Paper has rightly identified that restaurants, cafes and caterers face considerable complexity in determining and claiming GST credits, as GST only applies to a proportion of their inputs. For example, there is no GST on raw chicken, however GST is applicable to value-add products such as smoked chicken, cooked chicken or diced chicken products. This means to determine their GST liability, restaurant owners are forced to work through invoice by invoice the GST paid, while small businesses in other sectors can simply assume that all their inputs attract GST.

For a restaurant or catering business, the process of claiming a credit for the GST component of the purchase price of the item is varied and complex. The broadening of the tax base to include fresh food and produce for this sector would represent savings to businesses by reducing red tape and the administrative burden associated with calculating GST paid for tax purposes.

While this has been addressed to some extent by the 'averaging' method made available by the ATO, greater simplification of the GST would remove the additional burden altogether.

Analysis conducted by KPMG over page reveals the economic impact of changes to the GST, and the implications for smaller inefficient taxes such as conveyancing duty, insurance tax and payroll tax should the GST be increased or broadened¹⁸.

¹⁸ KPMG (2011) *CPA Australia: Economic Analysis of the Impacts of Using GST to Reform Taxes*, September 2011

Scenario	Revenue Generation	Impact on living standards	Impact on inefficient taxes
12.5% GST <i>replacing some less efficient taxes</i>	\$10.5 billion in additional revenue	\$1.6 billion higher	Abolition of: <ul style="list-style-type: none"> Insurance duty and fire insurance duty Motor vehicle taxes – stamp duty and registration 10% of commercial conveyancing duty
15% GST <i>replacing some less efficient taxes</i>	\$20 billion in additional revenue	\$4.7 billion higher	Abolition of: <ul style="list-style-type: none"> Insurance duty and fire insurance duty Motor vehicle taxes – stamp duty and registration commercial conveyancing duty 40% of payroll tax
20% GST <i>replacing some less efficient taxes</i>	\$40 billion in additional revenue	\$4.6 billion higher	Abolition of: <ul style="list-style-type: none"> Insurance duty and fire insurance duty Motor vehicle taxes – stamp duty and registration commercial conveyancing duty all of payroll tax
Uniform GST <i>replacing some less efficient taxes</i> Broadening to include consumption of products that are currently GST-free	\$11.5 billion in additional revenue	\$4.0 billion higher	Abolition of: <ul style="list-style-type: none"> Insurance duty and fire insurance duty Motor vehicle taxes – stamp duty and registration 50% of commercial conveyancing duty

From the table above, it is evident that an increase or broadening of the GST would provide for the removal of smaller and less efficient taxes that disproportionately affect small business.

Recommendation

- R&CA supports the broadening of the GST to include fresh food and produce, to allow for the removal or abolition of less efficient taxes, while reducing the compliance burden on hospitality operators in determining GST credits in their business.

Superannuation Guarantee Scheme

Australia's superannuation system was intended to deliver retirement savings to the economy, reducing the pressure on Australia's welfare system. There are, however, instances of leakage from the current superannuation system, in particular, contributions made for Working Holiday Makers.

Given the transient nature of employment within the sector, as well as ongoing skills shortages, Working Holiday Makers make up a disproportionate segment of the tourism and hospitality labour force.

Despite promoting the collection of superannuation contributions to Working Holiday Makers, very few collections are made. This is either because the amount of the contribution is so small that it is not worth rolling into another fund (due to the cost of administration fees), or they are unable to collect the funds from outside Australia.

As a result, the employer bears the administrative burden of the making contributions with no net benefit delivered to the employee or the economy. R&CA suggests superannuation contributions made for overseas workers including Working Holiday Makers are contributed to an education and training fund to upskill and train Australian workers.

In addition, the Superannuation Guarantee Levy (SGL) threshold under the Restaurant Industry Award 2010 was lowered to \$350 per month. The SGL threshold was established in 1996 at \$450 per month with the minimum wage at the time of \$9.19. Today the minimum wage is \$16.37 (a 78 percent increase on 1996), yet the threshold has remained the same. Based on the growth in the minimum wage, the SGL threshold should be approximately \$577 per month or \$1731 per quarter. R&CA recommend the SGL threshold be raised to \$1800 per quarter and that it be indexed to CPI.

Recommendation

- Remove the requirement to pay superannuation to overseas workers including Working Holiday Makers.
- Raise the Superannuation Guarantee Threshold to \$600 per month (\$1800 per quarter) and index to CPI.

CONCLUSION

R&CA welcomes the opportunity to provide comment to the Tax Discussion Paper. The review provides a timely opportunity to examine the tax system so that businesses remain competitive, while supporting broader economic objectives of Government including the development of infrastructure and public services across Australia.

As a labour-intense sector, the tourism and hospitality sector suffers a disproportionate tax burden through labour-based taxes such as payroll tax. R&CA believes the payroll tax threshold should be increased and harmonised across the states and territories to provide a greater opportunity for smaller businesses to expand their operation and hire additional staff. Reform of other labour-based taxes including superannuation contributions for Working Holiday Makers provides an opportunity to re-invest and upskill Australian workers.

In addition, supporting the broadening of more effective taxes such as the GST is one such way to ensure changes to the payroll system remain revenue neutral for the states. For the tourism and hospitality industry, this would also lead to further cost savings by reducing the complexity in determining tax credits that apply in their businesses. R&CA recognises that such reform requires considerable negotiation and support from state and territory governments, but believes such reforms have the capacity to significantly change the tax landscape in Australia.

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