Submission to the Federal Treasurer

Not-For-Profit Sector Tax Concession

Fairer, simpler and more effective tax concessions for the not-for-profit sector

NSW GOVERNMENT | Health

Contents

Executive Summary

Tax concessions are currently available under the FBT legislation for employers who are public hospitals and ambulance services. Specifically for public hospitals and ambulance services the grossed-up taxable value of fringe benefits that can be provided exempt for each employee is capped at $17,000. This cap currently does not include the provision of meal entertainment, entertainment facility leasing or car parking expenses provided to employees.

The Government has identified a number of concerns in respect of the current FBT concessions including the following:

- Inconsistency in the eligibility requirements an entity in the NFP sector has to satisfy to obtain an exemption or rebate
- Inequality and issues of competitive neutrality where entities entitled to the FBT concessions are directly competing with entities that are not entitled to these FBT concessions
- The way FBT concessions are applied are deviating from the original policy intent
- The significant administrative burden on eligible entities within the NFP sector as a result of employee salary packaging to access their FBT concessions.

Accordingly, the Government has proposed a number of reform options which are intended to promote a fairer, simpler and more effective ways of delivering the current support to the NFP sector.

The main reforms that would have an adverse impact on the staffing levels for the NFP sector are the following:

- To include meal entertainment and entertainment facility leasing benefits within the relevant caps
- Phase our capped FBT concessions and replace with either alternative government support or alternative tax-based support mechanisms for eligible NFP entities.

The tax concessions provide substantial support to public hospitals and ambulance services (since the inception of the FBT legislation) to attract and retain labour and deliver community support that would otherwise not be possible. Research prepared by Healthforce Australia has demonstrated that without any reforms to the current health system, Australia is likely to experience severe shortages of nurses (109,000 or 27%) and doctors (2,700 or 3% of doctors overall) by 2025.[1] The deteriorating health conditions in Australia caused by obesity and an ageing population will force an upward pressure on demand for skilled professionals in the health services industry.

[1] Health Workforce Australia, *Health Workforce 2025 Doctors, Nurses and Midwives*, Volume 1, March 2012, page iii

Based on the impacts identified above we propose the following to be applied in respect of public hospitals and ambulance services:

- Expand the current eligibility requirement pursuant to subsection 57A of the FBTAA to allow NSW Health employees who are predominantly involved in the provision of public hospital services and services that support public hospital services to access the exemption
- A uniform $30,000 cap be applied to all eligible employers (both PBIs, public and ambulance services) and continue to exclude meal entertainment, entertainment leasing and car parking expenses from the caps. Increasing the cap for public hospitals and ambulance services to $30,000 would promote fairness between the support provided by the Government to the different entities within the NFP sector and consistency in eligibility requirements to access exemptions in the NFP sector.

1 Submission

We refer to the Federal Government's (the "Government") discussion paper entitled *Fairer, simpler and more effective tax concessions for the not-for-profit sector*, inviting submissions from the not-for-profit (NFP) sector, state and territory governments and the broader community regarding the proposed reforms to the tax concessions for the NFP sector as released by the Federal Treasurer on 6 November 2012.

We respond, on behalf of New South Wales Ministry of Health, to the questions for consultation specifically in relation to the FBT concessions as sought in the Government's discussion paper.

We outline in the following sections our analysis and responses to the proposed reforms specifically in relation to the tax concessions applicable to public hospitals and ambulance services as well as our suggested alternative reforms which have been constructed based on our analysis.

2 Questions for consultation

The discussion paper includes a number of questions for consultation. As part of our submission, we have only considered the consultation questions in relation to the Fringe Benefits Tax (FBT) concessions that impact public hospitals and ambulance services. We provide our responses as part this submission below. We discuss these issues in further detail in the body of our submission and refer to the relevant sections of the submission where appropriate.

Q28 Assuming the current two tiered concessions structure remains, what criteria should determine an entity's eligibility to provide exempt benefits to its employees?

Subsection 57A (2)(b) provides that an employee duties needs to be "exclusively" performed on premises of the public hospital or "exclusively in connection with the provision of public hospital services. The current wording of subsection 57A of the FBTAA produces inconsistency and inequality in relation to the employees within the public health sector that can access the exemption.

Provision of services within public hospitals is continually being improved to increase productivity and efficiency. In fact, a key component of the National Health Reform Agreement introduced on 1 July 2012 was establishing a national efficient pricing for hospital based services as determined by the Independent Hospital Pricing Authority.

To this extent, consolidation of services integral to providing hospital care such as hospitality services, expert training, quality and safety adherence services are being established with their predominate purpose being the provision of services to public hospitals. However, federal and state accountability may require some other duties such as reporting to various Health bodies.

This can create a level of confusion as to whether these staff are "exclusively" providing services to a public hospital which is not the position nor is it the intent of restructuring service provisions of this nature.

We strongly recommend expanding the current eligibility requirement pursuant to subsection 57A of the FBTAA to include employees who are predominantly involved in the provision of public hospital services and services that support public hospital services.

This is discussed in more detail in section 5.1 of this submission

Q29 Also assuming that the current two tiered concession structure remains, what criteria should determine an entity's eligibility to provide rebateable benefits to its employees? Should this be restricted to charities? Should it be extended to all NFP entities? Are there any entities currently entitled to the concessions that should not be eligible?

As the focus of our submission is in relation to the FBT concessions for public hospitals and ambulance services, we have not considered this question on behalf of NSW Ministry of Health ("NSW Health").

Q30 Should there be a two tiered approach in relation to eligibility? For example, should all tax exempt entities be eligible for the rebate, but a more limited group be eligible for the exemption?

Yes. To promote fairness, equality and consistency across the eligible entities within the NFP sectors, all tax exempt entities that do not fall within the specific entities that are eligible for the exemption are eligible for the rebate. The entities eligible for the exemption should be limited to a select group of entities i.e. those in greatest need of additional government support, being public benevolent institutions (PBIs), public and NFP hospitals, health promotion charities, ambulance services and religious entities.

Q31 Should salary sacrificed meal entertainment and entertainment facility leasing benefits be brought within the existing caps on FBT concessions?

No. In our view the salary sacrificed meal entertainment and entertainment facility leasing benefits should not be brought within the existing caps. This is due to the fact that allowing employees to salary sacrifice meal entertainment and entertainment facility leasing benefits is an important strategy to attract and retain employees into the currently aging health services workforce coupled with the skilled shortages in the health services industry.

It is important to note that even with the current FBT concessions which has increased the capacity for entities within the health services industry to attract skilled labour, the health services industry continues to face a shortage of staff. As such, it would prove to have a negative impact on these issues if salary sacrificed meal entertainment and entertainment leasing expense was to be included in existing caps. In addition, where the salary sacrificed meal entertainment and entertainment leasing expense are included in the existing caps, there may be a need to increase the gross salary of employees to compensate employees.

This is discussed in more detail in section 6 and 7 of this submission

Q32 Should the caps for FBT concessions be increased if meal entertainment and entertainment facility leasing benefits are brought within the caps? Should there be a separate cap for meal entertainment and entertainment facility leasing benefits? If so, what would be an appropriate amount for such a cap?

Increasing the capped FBT concessions is one of the strategies to meet the increasing demand for employees in the health services industry (as discussed in Q 31 above and in more detail in section 6 and 7 of this submission) and to enable public hospitals and ambulance services to continue providing vital health programs and health services to those in need.

We recommend a uniform $30,000 cap be applied to all eligible employers (both PBIs, public hospitals, NFP hospitals and ambulance services) and as per question 31 continue to exclude meal entertainment, entertainment leasing and car parking expenses from the caps.

Increasing the cap for public hospitals and ambulance services to $30,000 would promote fairness between the support provided by the Government to the different entities within the NFP sector and ensure consistency in eligibility requirements to access exemptions in the NFP sector.

Please refer to section 5 for our proposed reforms.

Q33 Are there any types of meal entertainment or entertainment facility leasing benefits that should remain exempt/rebateable if these items are otherwise subject to the relevant caps?

Yes. The meal entertainment and entertainment leasing expenses that cannot be attributed to individual employees e.g. staff Christmas parties and farewell lunches should remain exempt / rebateable as this would reduce the administrative burden as a result of including meal entertainment and entertainment facility leasing expense in the relevant cap.

As such, should this proposed amendment be implemented, only meal entertainment and entertainment facility leasing expense which has been salary sacrificed by the employee should be included in the relevant cap.

If the Government proposed to include all meal entertainment or entertainment facility leasing benefits into the relevant caps, in the situation where public hospitals and ambulance services entertain their employees (which we understand rarely happens but could be used as part of staff retention), these entities will be required to pay additional FBT which they could not afford.

Q34 Should there be a requirement on eligible employers to deny FBT concessions to employees that have claimed a concession from another employer? Would this impose an unacceptable compliance burden on those employers? Are there other ways of restricting access to multiple caps?

Yes. Similar to the tax-free threshold, employees should only be entitled to one relevant concessional benefit caps per year to avoid the potential for certain individual employees to benefit from multiple concessional benefit caps if they are employed and are provided with benefits by multiple employers. There would be a significant compliance burden placed on employers if they are required to obtain employment declarations stating the amount of benefits received from other employers. A simple and more effective solution may be to apportion the concessional benefit caps by the number of days an employee is employed by each of the different employers during a FBT year. This method would certainly reduce the compliance burden on the relevant employers.

Q35 Should the rate for FBT rebates be re-aligned with the FBT tax rate? Is there any reason for not aligning the rates?

Yes. The rate for FBT rebates should be re-aligned with the FBT tax rate as per the original intent of the FBT legislation. When the FBT rate was decreased to 46.5% in the 2005-2006 Budget, the rate of FBT rebate should also have been reduced to reflect the correct FBT rate so that entities are not over compensated.

No. There is no reason not to align the rates. However, there is the possibility that this change could create confusion amongst employers. In addition, realignment in rates would be an administrative burden to employers as they would be required to update their current systems, processes and procedures as a result.

Q36 Should the limitation on tax exempt bodies in the minor benefits exemption be removed? Is there any reason why the limitation should not be removed?

Yes. The removal of the limitation on tax exempt bodies to access the minor benefit exemption will simplify the process and reduce the administrative costs related to recording and reporting large volumes of minor benefits that are only provided annually. This will also promote consistency in the eligibility of the minor benefit treatment across different types of employers.

Q37 Is the provision of FBT concessions to current entities appropriate? Should the concessions be available to more NFP entities?

Please refer to our response at question 28 where we have requested that the current eligibility requirements pursuant to subsection 57 (2) of the FBTAA be expanded.

Q38 Should FBT concessions (that is, the exemption and rebate) be phased out?

No. The utilisation of current FBT concessions is an important means to recruit and retain employees for public and ambulance services. The skills shortage in Australia, which we will discuss in more details in section 6 of this submission, highlights the need for public hospitals and ambulance services to remain competitive in attracting talent. If the FBT concessions were to be phased out, a number of employees would take the view that they were below the threshold for monetary income and leave public hospitals and ambulance services. These entities would not be able to compete with employers in commerce that are in a financial position to offer more competitive market equivalent salaries to employees.

Q39 Should FBT concessions be replaced with direct support for entities that benefit from the application of these concessions?

No. Any government grant will introduce uncertainty to public hospitals and ambulance services in relation to ongoing funding. As we will discuss in more details later in this paper, there is a significant shortage of well-trained and skilled healthcare professionals both domestically and internationally that will have a negative impact on the sustainability of healthcare delivery in Australia. Together with the shortage, there are also findings on the ageing of the healthcare workforce. To address the challenges, public hospitals and ambulance services need to focus on continuously retaining the aged workforce and strengthen staff skills. In order to address these issues, public hospitals and ambulance services require guaranteed support from the government to ensure decisions can be made in relation to appropriate long term resource planning.

As such FBT concessions are a certain mechanism of support from the government which offers autonomy and does not increase the compliance and administrative costs to public hospitals and ambulance services.

Another complicating factor to any suggestions to replace the FBT concessions with a direct grant is the need to consider how such an external funding approach could be made in relation to the interaction of the National Health Reform Agreement as well as the role that is now being played by the Independent Hospital Pricing Authority (IHPA) in setting the national efficient price for public hospitals. Obviously any decrease in FBT concessions will have a direct impact on expenditure which would then be factored into the IHPA price that the Commonwealth uses to calculate its ABF payments and block payments to the Health Services in NSW.

Q40 Should FBT concessions be replaced with tax based support to entities that are eligible for example, by refundable tax offsets to employers, a direct tax offset to the employees or a tax free allowance for employees?

No. FBT concessions should not be replaced with tax based support as these tax based support has the impact of increasing compliance and administrative costs to both the Government and the eligible employers.

The tax based support is potentially a reallocation of the funding from FBT concessions into payments of cash whether directly or indirectly to the employees.

We believe the certainty of existing FBT concessions may achieve their objective of support more efficiently than the tax offsets and tax allowance for employees.

Q41 Should FBT concessions be limited to non-remuneration benefits?

No. FBT concessions limited to non-remuneration benefits do not assist entities in the NFP sector to attract health service employees to alleviate the skill shortages in Australia. Those who work in the NFP sector typically receive less take home pay compared to their counterpart from the for-profit sector. If we were to limit the FBT concessions to only non-remuneration benefits, employees from NFP sectors will be inadequately compensated compared to the for-profit sector.

Q42 If FBT concessions are to be phased out or if concessions were to be limited to non-remuneration benefits, which entity types should be eligible to receive support to replace these concessions?

If the FBT concessions are to be phased out or limited to non-remuneration benefits, the entities that are currently eligible to receive the exemptions or rebates should be eligible to receive support.

3 Current FBT position

The *Fringe Benefits Tax Assessment Act 1986* ("FBTAA"), provides for concessional taxation treatment to public hospitals and ambulance services.

Subsections 57A(2) and 57A(3) of the FBTAA provides:

"(2) Where:

(a) the employer of an employee is a government body; and

(b) the duties of the employment of the employee are exclusively performed in, or in connection with:

(i) a public hospital; or

(ii) a hospital carried on by a society that is a non-profit society for the purposes of section 65J or by an association that is a non-profit association for the purposes of section 65J;

a benefit provided in respect of the employment of the employee is an exempt benefit.

(3) A benefit provided in respect of the employment of an employee is an exempt benefit if:

(a) the employer of the employee is a public hospital; or

(b) the employer provides public ambulance services or services that support those services and the employee is predominantly involved in connection with the provision of those services."

Accordingly, where an employer satisfies the requirements in subsections 57A(2) and/or 57A(3) of the FBTAA, the employer is exempt from paying FBT on the fringe benefits it provides to its employees.

However, this concessional treatment is limited to a cap of $17,000 on the grossed-up taxable value of benefits provided per employee. In working out the employer's fringe benefits taxable amount, subsection 5B(1D) of the FBTAA provides that where an employer meets the requirements of subsections 57A(2) and/or 57A(3) of the FBTAA, the employer's fringe benefits taxable amount is increased by the employer's aggregate non-exempt amount. Pursuant to subsection 5B(1E) of the FBTAA, where the employer is a public hospitals and ambulance services, it may subtract $17,000 from each individual employee's grossed-up non-exempt amount. If the grossed-up non-exempt amount is equal to or less than $17,000, the individual employee's non-exempt amount will be zero. The employer's aggregate non-exempt amount is calculated by adding this calculation for each relevant employee.

Subsection 5B(1L) of the FBTAA provides that an individual employee's non-exempt amount does not include benefits that:

"(a) that constitute the provision of meal entertainment as defined in section 37AD (whether or not the employer made an election under section 37AA); or

(b) that are car parking fringe benefits; or

(c) whose taxable values are wholly or partly attributable to entertainment facility leasing expenses".

4 The Government's proposed reforms

4.1 Reasons for reform

As identified by the Productivity Commission, 2010, Contribution of the Not-for-Profit Sector, there is a view that the FBT concessions are currently being used in ways that are not aligned with the original policy intent.

The Government has also identified inconsistency in the current eligibility requirements to obtain tax concessions in the NFP sector. Under the current FBT legislation, only public benevolent institutions (PBIs), public and NFP hospitals, health promotion charities, ambulance services and religious entities are entitled to an exemption from FBT when providing fringe benefits to employees. Only some, but not all, income tax exempt entities are entitled to the rebate. In addition, some of the entities that can access the concessions are not charities.

One of the main concerns in respect of the current FBT concessions are the issues of competitive neutrality that have arisen as a result of entities in the NFP sector that are competing directly with businesses that do not have access to these FBT concessions. Furthermore, the provision of fringe benefits imposes significant administrative burdens on entities in the NFP sector to organise and offer salary packaging and the associated reporting requirements.

4.2 Reform Options

In its discussion paper, the Government proposed a number of reform options with respect to FBT concessions granted to eligible entities within the NFP sector.

4.2.1 Eligibility

The Government is proposing to review the list of entities that are currently eligible for the exemption and the entities that are currently entitled to the rebate.

4.2.2 Include meal entertainment and entertainment facility leasing benefits within the capping thresholds

The Government has proposed that while meal entertainment and entertainment facility leasing benefits should continue to receive concessional treatment, they should be subject to the relevant FBT caps. Accordingly under the proposed changes, the $17,000 cap for public hospitals and ambulance services could include expenditure on meal entertainment and

entertainment facility leasing expenses. However, meal entertainment and entertainment facility leasing expense that cannot be easily allocated to individual employee e.g. Christmas party expenses will not need to be included in the relevant FBT caps.

4.2.3 Require employment declarations to include information about FBT concessions to avoid employees from benefiting from multiple caps

The Government has proposed that employees should specify whether they are already receiving concessional FBT benefits from previous employers when making employment declarations. However, the treatment of employees who wish to claim fringe benefits from various employers within a single concessional cap remains undecided. FBT exemptions from subsequent employers may simply be denied. Alternatively, the Treasury may allow employees to benefit from a fraction of the capped threshold from each individual employer.

4.2.4 Align the rate for fringe benefits tax rebates with the fringe benefits tax rate of 46.5%

No adjustment was made to the FBT rebate when the FBT rate was reduced in the 2005-06 Budget. The Government has proposed aligning the rate for FBT rebates with the current FBT tax rate of 46.5%.

4.2.5 Align the minor benefit exemption with the commercial sector

The Government is proposing to extend the application of the minor benefit exemption pursuant to section 58P of the FBTAA to apply to employers who are tax exempt bodies.

4.2.6 Phase out capped FBT concessions and replace with alternative government support

The Government is proposing the capped FBT concessions be phased out entirely over 10 years. The FBT concessions will be substituted with direct government funding which can be applied through application to the Australian Charities and Not-for-Profits Commission (ACNC) or relevant Government agencies.

4.2.7 Phase out FBT concession and replace with alternative tax-based support mechanisms for eligible not-for-profit entities

- *Refundable tax offsets payable to eligible entities*

  The Government is proposing the capped FBT concessions be phased out. The FBT concessions will be substituted by a system of refundable tax offsets (i.e. a direct payment per employee) for entities that are eligible. This system would require each employer that is eligible to apply on a per employee basis.

- *Direct tax offset for employees of eligible entities*

  The Government is proposing the capped FBT concessions be phased out. The FBT concessions will be substituted by an income tax offset provided directly to the employees to reduce the amount of income tax paid. This can be administered via the current PAYG withholding system by reducing the amount of tax deducted throughout the year by this tax offset amount.

- *Tax free allowances for employees of eligible entities*

  The Government is proposing the capped FBT concessions be phased out. The FBT concessions will be substituted by allowing employers to provide capped tax-free allowances to employees. The tax free allowance caps will be different depending on the different type of employers.

4.2.8 Limit concessions to benefits incidental to employment

If the current FBT concessional framework was to be maintained, the Government is proposing that the FBT concessions be limited to "non-remuneration benefits" i.e. benefits that are incidental to employment, e.g. in-house meals and/or the use of staff car park in the CBD.

5 Our proposed reform

5.1 Expand eligibility requirements and increase FBT concessions

5.1.1 Expansion of eligibility requirements for public hospitals and ambulances services – support services to public hospitals

Since the passage of the NSW Government's Public Sector Employment Legislation Amendment Act 2006 on 17 March 2006, NSW Health employees are now employees of the NSW Health Service – Crown Authority.

As such, NSW Health can access the exemption pursuant to subsection 57A (2) of the FBTAA if the duties of the employee are either:

- Exclusively performed on the premises of a public hospital or
- Exclusively engaged in activities that enable a public hospital to carry out its functions.

Provision of services within public hospitals is continually being improved to increase productivity and efficiency. In fact, a key component of the National Health Reform Agreement introduced on 1 July 2012 was establishing a national efficient pricing for hospital based services as determined by the Independent Hospital Pricing Authority.

To this extent, consolidation of services integral to providing hospital care such as hospitality services, expert training, quality and safety adherence services are being established with their predominate purpose being the provision of services to public hospitals. However, a minor role might also require other duties such as reporting to Commonwealth and State Health bodies.

There could be a level of confusion where it could suggest that these staff were not "exclusively" providing services to a public hospital which is not the position nor is it the intent of restructuring service provisions of this nature.

In addition, subsection 57A (3) of the FBTAA provides that ambulance services or services that support those services are eligible to provide fringe benefits exempt to their employees up to the cap provided the employees are predominantly involved in connection with the provision of these services.

This effectively means that the employees who are providing support services to the ambulance services can obtain the exemption while certain employees providing support services to the public hospitals will not receive the exemption.

There are some NSW Health entities which are a part of the NSW public health system, that provide supporting services predominantly to NSW public hospitals and exist in promoting the benefit of the community who require specialised medical services. Some of these entities currently may not meet the "exclusivity" requirement of an employee's duties to access the exemption pursuant to subsection 57A (2) if the FBTAA.

The services these entities provide are essential to public hospitals and were originally established as part of the public hospitals and therefore eligible for the exemption. The delivery of health services within NSW has evolved since the inception of the FBT legislation. As a result, the organisational structure of NSW public hospitals have also changed i.e. support entities and specialist medical services entities have been set up as separate legal entities even though their principal activities and specialisations remain unchanged. This does not reflect the original FBT concessions to public hospitals which recognised and covered these services. This has also created additional compliance burdens and unfairness within the public hospital sector.

In this regard, we strongly recommend expanding the current eligibility requirement pursuant to subsection 57A of the FBTAA to include employees who are predominantly involved in the provision of publics hospital services and services that support public hospital services.

We therefore propose the following changes to the *Fringe Benefits Tax Assessment Act 1986*.

Substitute the paragraph at subsections 57A (2) of the FBTAA with the following:

"(2) Where:

(a) the employer of an employee is a government body; and

(b) the employer provides:

i. ***public hospital services or services that support public hospital services and the employee is predominantly involved in connection with the provision of those services****; or*

……

a benefit provided in respect of the employment of the employee is an exempt benefit.

5.1.2 Increase FBT concession for public hospitals and ambulance services – a uniform cap

Under the current FBT legislation, public benevolent institutions (PBIs) are exempt from paying FBT where the grossed-up taxable value of fringe benefits provided to employees are capped at $30,000 per employee.

As discussed in section 6 and 7 of this submission, the skill shortages in the health services industry, an aging workforce coupled with deteriorating health conditions will put an upward

force on the demand for healthcare services required by the economy. As a result of this increased demand for healthcare services, it is particularly important that the FBT concessions are not removed as it will likely lead to an adverse impact on staffing levels.

It is important to note that even with the current FBT concessions which has increased the capacity for entities within the health services industry to attract skilled labour, the health services industry continues to face a shortage of staff. There is significant risk that the current reforms to abolish the FBT concessions will impair the ability of the health services industry to provide health services to the people who most need it.

Increasing the capped FBT concessions is one of the strategies to meet the increasing demand of employees in the health services industry and to enable the public hospitals and ambulance services to continue providing vital health programs and health services to those in need.

We recommend a uniform $30,000 cap be applied to all eligible employers (both PBIs and public and ambulance services) and continue to exclude meal entertainment, entertainment leasing and car parking expenses from the caps. Increasing the cap for public hospitals and ambulance services to $30,000 would promote fairness between the support provided by the Government to the different entities within the NFP sector and consistency in eligibility requirements to access exemptions in the NFP sector.

We therefore propose the following changes to the *Fringe Benefits Tax Assessment Act 1986*.

1. Substitute the following at subsection 5B (1E):

> *(1E) An employer's aggregate non-exempt amount for the year of tax is worked out as follows.*
> *...*
> *Step 2. If:*
>
> *(b) the employer is a government body and the duties of the employment of one or more employees are as described in paragraph 57A(2)(b) (which is about duties of employment being exclusively performed in or in connection with certain hospitals); or*
>
> *(c) the employer is a public hospital; or*
>
> *(ca) the employer provides public ambulance services or services that support those services and the employee is predominantly involved in connection with the provision of those services; or*
>
> *(d) the employer is a hospital described in subsection 57A(4) (which is about hospitals carried on by non-profit societies and associations);*
> *Subtract **$30,000** from the individual grossed-up non-exempt amount for each employee of the employer referred to in paragraph (c), (ca) or (d), or each employee referred to in paragraph (b), for the year of tax. However, if the individual grossed-*

up non-exempt amount for such an employee is equal to or less than $30,000, the amount calculated under this step for the employee is nil.

2. Subsection 5B(1L) remains unchanged.

6 Skills shortages in Australia

6.1 Australia's looming skills shortage

It has been and continues to be well publicised that Australia faces a looming skills shortage, which is of great significance for Australian's economic growth.

Research conducted by the Department of Education, Employment and Workplace Relations ('DEEWR') found that as a result of the modest pace of employment growth, 60% of the skilled occupations assessed were in shortage in NSW.[2]
In particular, the DEEWR survey found skills shortages in the health sector which is of great social importance, including Occupational Therapist, Physiotherapist, Audiologist and Registered Nurses.[3]

In addition to current conditions, there are further factors which must be considered that will affect labour shortages in the future. In particular, the expected number of skilled Australian graduates and the retirement of mature-age workers. Both of these factors were referenced in Deloitte's *Building the Lucky Country: Where is your next worker?* publication. Among these references, it provided that the pace of retirement will ramp up over the next few years, whereas the number of students exiting education is projected to remain stagnant through to the early 2020s[4].

In particular, over the next five years it is projected that fewer than 125 people will be exiting education for every 100 retiring. This would be the highest ratio of job market retirements to new entries in Australia's history[5]. It is expected that the number of graduates will increase from 2023 (the number of births in Australia increased by 20% between 2001 and 2009[6]). However, the ratio of working age Australian's to those aged 65 and older will fall from 5 to 1 in 2010 to 2.9 to 1 in 2050[7], resulting in significant reliance on mature-age workers set to retire.

[2] Australian Government, Department of Education, Employment and Workplace Relations, *Skills Shortages – New South Wales*, June 2011, p.13
[3] Skill Shortage List – Australia 2011-2012
[4] Deloitte Touche Tohmatsu, *Building the Lucky Country: Where is your next worker?*, November 2011, p. 6
[5] Deloitte Access Economics estimates, 2011
[6] Australian Bureau of Statistics, Births, Australia, Cat. No. 3301.0, 2009
[7] Deloitte Access Economics, Demographic Model, 2011

6.2 Shortage in health services industry

As part of an assessment of health workforce sustainability it was found that Australia has a high level of dependence on internationally recruited health professionals relative to other OECD countries[8].

Furthermore, Australia's nursing workforce is heavily affected by worldwide nurse shortages. Additionally, there is a need for greater general practice healthcare workers in regional and remote areas.

In early 2010, the Government asked Skills Australia, an independent Board of industry, economics and education experts to develop a new Skill Occupation List (SOL)[9] for migration purposes to identify occupations in demand to assist in meeting the skills needs of Australia. The 2011 SOL included 192 occupations, which included the following occupations in the health sector, to name a few:

- General, cardiothoracic, paediatric and neurosurgeons
- Medical practitioners
- Registered nurses
- Nursing clinical director and
- Hospital and retail pharmacists.

Research done by Healthforce Australia shows that without any reforms to the current system, Australia is likely to experience severe shortages of nurses (109,000 or 27%) and doctors (2,700 or 3% of doctors overall) by 2025.[10]

The removal of FBT concessions will also result in a range of other risks such as the risk of skilled labour exiting the NFP sector. Lateral Economics conducted a survey where they questioned the importance of FBT concession in influencing whether employees remain employed in the sector - more than 90 percent of the employees in the charitable sector responded "Very Important" or "Quite Important". When asked whether they will continue to work in the health and ages care NFP sector if the FBT concession was withdrawn without compensating changes to their salary package, nearly 40 percent of the employees in the sector responded "No".[11]

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[8] Australian Healthcare and Hospitals Association, James M. Buchan, Lucio Naccarella, Peter M. Brooks, *Is health workforce sustainability in Australia and New Zealand a realistic policy goal*, 2011, Australian Health Review 35(2) 152-155 http://dx.doi.org/10.1071/AH10897

[9] Skills Australia, *Providing advice to the Australian Government about the 2011 Skilled Occupation List*, June 2011, http://www.skillsaustralia.gov.au/PDFs_RTFs/SOL/FactSheetExplanatory Summary.pdf

[10] Health Workforce Australia, *Health Workforce 2025 Doctors, Nurses and Midwives*, Volume 1, March 2012, page iii

[11] Lateral Economics, The case for retaining the FBT concession for not for profit Hospitals/Aged Care and Public Benevolent Institutions (Charities), April 2010

Currently, there is around 238,441 staff in public hospitals.[12] According to the sample statistics provided by this survey, and estimating the magnitude of risks associated with removing the FBT concessions, approximately 95,000 employees will leave the industry and pursue their career elsewhere as a result. This research proves that the removal of FBT concessions without adequate compensation will significantly downsize the workforce in the health services industry.

Given the importance of healthcare and the difficulty in attracting health workforces in the context of skills shortages in the health services industry, it is particularly important that FBT concessions which assist in attracting and retaining employees in the health services industry are not removed.

6.3 Ageing workforce

In addition to the shortage in health services industry, the Australian workforce is ageing. The average age of all Australian workers has increased by 2.8 years and the increase for workers in the health services industry is 5.5 years.[13] The shortage of well-trained and skilled healthcare professionals will impose a significant risk to the sustainability of the healthcare system. As healthcare workers are retiring, there are not sufficient trained healthcare professionals to replace those that have exited the workforce.

In 2010, each Australian over the age of 65 was supported by 5 people in their working age. However, it is estimated that by 2050, each Australian over the age of 65 will be supported by 2.7 people in their working age. [14] This reduction will have a significant impact on the health services industry likewise. The average age for nurses has increased across all states and territories between 2001 and 2005[15]. Research also shows the increasing loss from the health workforce as the current workforce ages. For example from 2004 to 2009, the proportion of those nurses aged 55 and above increased from 15 percent to 20 percent, and 24 percent to 25 percent for doctors.[16] This means if the nursing workforce continues to age and individuals retire, there will not be enough resources to make a significant contribution to the health workforce. If this trend continues into the future, it will mean more medical professionals will be required to satisfy current demand, let alone future growing demand.

As the demand for health services increases, the associated costs required to maintain the level of activity will increase accordingly. Therefore it is crucial when planning a sustainable delivery of health services to consider the issues that are impacting the health workforce.[17]

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[12] *Public and Private Hospitals – Productivity Commission Research Report*, Dec 2009

[13] National Health Workforce Taskforce, *Health Workforce in Australia and Factors for Current Shortages*, April 2009, http://www.ahwo.gov.au/documents/NHWT/The%20health%20workforce%20in%20Australia%20and%20factors%20influencing%20current%20shortages.pdf http://www.aph.gov.au/Library/pubs/rn/2004-05/05rn35.pdf

[14] Department of Treasury Intergenerational report 2010

[15] National Health Workforce Taskforce – 6 May 2009

[16] AIHW Nursing and Midwifery Labour Force Survey 2004 and 2009

[17] AIHW Labour Force Survey & AIHW Labour Force Survey

6.4 Recruitment difficulties

Whilst the demand for professionals in the health services industry continue to increase due to the growth of the population and ageing workforce, employers in NSW also found that recruitment difficulties are evident for certain vacancies such as Medical Diagnostic Radiographer, Occupational Therapist and Speech Pathologist etc.[18] The main reasons for resignations are related to the work environment, low pay, limited educational and career opportunities.[19] The research show there is a clear linkage between the employee's pay and their resignation rate.

There is also a change of intentions and availabilities, which indicates a move towards decreasing the hours of work and an increasing trend towards part-time employment.[20] This has imposed additional pressures on public hospitals to compete and attract well-trained professionals.

The shortage in skilled professionals in the health services industry means public hospitals in the future will need to rely on less-experienced graduates to fill in the vacancies. There has been an increase in medical school places in response to health workforce shortages. It is projected that an increase of 85.7 percent of domestic medical graduates are expected to enter the Australia workforce from 2007 to 2012.[21] This graduate intake means more investment are required to build sufficient training programs in the existing system to ensure the delivery of health services are not impaired due to the shortage of experienced staff.

It is important to note that even with the current FBT concessions which has increased the capacity for entities within the health services industry to attract skilled labour, the health services industry continues to face a shortage of staff. There is a significant risk that the current reforms to abolish the FBT concessions will impair the ability of the health services industry to provide quality health services to the people who most need it.

6.5 Importance of retaining and recruiting

It has been highlighted in the above discussion that public hospitals and ambulance services are facing challenges from an ageing workforce and recruitment difficulties from a well-trained workforce pool. To close the shortage gap, the focus for public hospitals now is to focus on retaining their experienced staff with competitive salaries and working conditions and to have long term skills training programs in place for the less experienced staff. These

[18] *Skill Shortages New South Wales*, June 2012
[19] W. Christine, A. Tit and P. Carlo, *How to create an attractive and supportive working environment for health professionals,* 2010, http://www.euro.who.int/__data/assets/pdf_file/0018/124416/e94293.pdf
[20] National Health Workforce Taskforce, *Health Workforce in Australia and Factors for Current Shortages*, April 2009, http://www.ahwo.gov.au/documents/NHWT/The%20health%20workforce%20in%20Australia%20and%20factors%20influencing%20current%20shortages.pdf
[21] ibis

all require continuous support from the Government to ensure a successful implementation of these long term strategies.

The current FBT concessions to the NFP sector, which have been available since the inception of the FBT legislation, are an essential way to provide support to the NFP sectors and enable entities in the NFP sectors to attract and retain labour and deliver community support that would otherwise not be possible.

The Government's reforms to introduce a grant system would likely involve an increase in compliance cost in relation to the application approval process and introduce a level of uncertainty in sourcing funding impacting long term capital planning decisions and reducing the independence of entities in the NFP sector. The certainty of continuous support is extremely important for public hospitals to make strategic long term decisions i.e. obtaining resources in training their junior staff and attracting staff to fill the skills shortage.

7 Deteriorating Australian health conditions – a burden on health system

The new trends of physical inactivity, the prevalence of obesity in Australia and our ageing population lead to a variety of health problems among Australians. The deterioration of the Australian public's health at large will result in an inevitable increase in the number of people requiring medical care in hospitals and from the ambulance services. To accommodate the significant influx of patients in the future, public hospitals and ambulance services in Australia need to carefully consider how they will recruit and retain their staff to ensure there is sufficiently well-trained employees to deliver quality health services.

7.1 Physical inactivity

Physical activity is the second most important factor in disease prevention in Australia. Quitting smoking is number one.[22] Over recent years, total physical activity levels in Australia have declined significantly due to an increased use of private cars for transport, a decrease in home chores and an increase in sedentary behaviour, especially screen time.[23] Consequently, physical inactivity has become the fourth greatest risk factor, accounting for about 6.6 % of the disease burden.[24] There are a range of chronic diseases that are directly associated with physical inactivity and obesity. The key diseases include type 2 diabetes, cardiovascular disease, osteoarthritis and various types of cancer (such as colorectal, breast, uterine and kidney cancer)[25]. The World Health Organisation provides that physical inactivity causes two million deaths a year worldwide.[26]

7.2 Obesity epidemic

While Australia's mortality rates for coronary heart disease, stroke, lung cancer and transport accidents have improved significantly in terms of our ranking with other Organisation for Economic Co-operation and Development (OECD) member countries, this is not the case for

[22] Wesley Corporate Health, Future@Work Health Report, 2006
[23] R. Stanton, *Who will take responsibility for obesity in Australia*?, Public Health, Elsevier
[24] Stephen Begg, Theo Vos, Bridget Barker, Chris Stevenson, Lucy Stanley and Alan D Lopez, 2007, The Burden of Disease and Injury in Australia 2003, The Australian Institute of Health and Welfare
[25] Fitness Australia, Submission to the National Health and Hospitals Reform Commission page 18
[26] World Health Organisation (2002), Risks to health-promoting healthy living. World health report

our rates of obesity. As the statistics show, obesity has now become one of the greatest public health challenges confronting Australia[27]:

- Approximately one in five Australians are obese
- In 2008 - 2009, it was estimated that approximately 7,200 deaths could be attributed to obesity
- In 2003 overweight and obesity was the third highest cause of disease, and was responsible for around 7.5% of the total disease burden[28]
- Among all OECD countries, Australia has the fifth highest adult obesity rate.[29]

The prevalence of obesity continues to rise dramatically, so too does the associated health, economic and social costs.[30] This national health problem now poses a greater challenge to national public health management than either tobacco or alcohol.[31]

7.3 Our ageing population

The need to prevent obesity related disease is heightened by the growth in Australia's ageing population. The median age of the Australian population in 2005 was 36.7 years and the projected median age by 2050 is 45.2 years. This will add to fiscal pressures, requiring substantial outlays for pensions and health related expenditures. Indeed, the Intergenerational Report 2010 has noted that demographic and other factors are projected to place significant pressure on government finances over the longer term and result in an unsustainable path for net debt towards the end of the projection period.31 Australian Government spending is projected, in the absence of policy adjustments, to rise by around 4.75 % of GDP by 2046-47.

The increase level of physical inactivity, obesity and the aging population will mean an increase number of people needing assistance from the public health system. To accommodate for the influx of patients, the health system needs to be well prepared in advance, especially with sufficient well-trained health services staff. FBT concessions which are valued highly by the employees can serve as an effective and critical way to retain and attract health services professionals.

[27] National Preventative Health Taskforce, Technical Paper 1: Obesity in Australia - a need for urgent action (2008), Canberra p1
[28] Stephen Begg, Theo Vos, Bridget Barker, Chris Stevenson, Lucy Stanley and Alan D Lopez, 2007, The Burden of Disease and Injury in Australia 2003, The Australian Institute of Health and Welfare
[29] Fitness Australia, Submission to the National Health and Hospitals Reform Commission page ii
[30] KPMG Econtech Report, Economic Modelling of the Impact of Obesity and Obesity Interventions, 26 March 2010
[31] National Preventative Health Taskforce, Technical Report 1: Australia - the healthiest country by 2010 (2008),Canberra page 15

8 Conclusion

To build a healthier Australia, the public health services sector should not to be overlooked. Current skill shortages in Australia reflect a decrease in health services labour supply plus the deteriorating health of the Australian public present an increase in labour demand. The imbalance of supply and demand imposes major challenges for ambulances services and public hospitals to maintain their staffing levels and service standards.

From the inception of FBT in Australia, FBT concessions have been available to public hospitals and ambulance services. These FBT concessions are a source of significant support which enables public hospitals and ambulance services to attract and retain staff and to deliver community health programs and services that would not otherwise be possible.

We strongly recommend an expansion to the current Fringe Benefits Tax concession for public hospitals and ambulance services. Currently public hospitals and ambulance services are only entitled to the $17,000 concessional cap for each employee they hire. This support is not sufficient for these employers to compete with for-profit hospitals and the private sector in general. Increasing the concessional cap to $30,000 per employee will serve as a much more effective way to tackle the challenges ambulance services, public hospitals are facing today.

We also consider FBT should not be replaced by government direct support or tax based support as it creates significant administrative burden and imposes uncertainty for public hospitals and ambulance services to make long term planning decisions. We believe that the certainty inherent to the FBT concessions will achieve its objective to increase the quality of health services provided to Australian society, and help to build a healthier nation.

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