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Not-for-profit Sector Tax Concession Working Group Secretariat
The Treasury
Langton Crescent
PARKES ACT 2600

Email: NFPReform@treasury.gov.au

Dear Sir/Madam:

The Australian Medical Association (AMA) and the Australian Salaried Medical Officers Federation (ASMOF) are pleased to provide the following submission in response to the Not-for-Profit Sector Tax Concession Working Group discussion paper. We support a fair, efficient and equitable taxation system and would emphasise that the current framework of tax concessions for the NFP sector reflects good public policy, developed over more than 25 years and designed to support the recruitment of suitably qualified staff to work in important institutions that would not otherwise be able to compete against the salaries offered by the private sector.

In this context, the review needs to proceed with considerable caution. It must ensure that it thoroughly assesses the impact of potential reforms, taking into proper account the adjustment costs in the short and medium term as well as the downstream effects. The AMA and ASMOF are deeply concerned that the reforms canvassed in the discussion paper could significantly affect the ability of institutions, including public hospitals, to recruit and retain staff. In relation to public hospitals, this will clearly have an impact on access to services, patient care as well as teaching, training and research.

Despite these concerns, both the AMA and ASMOF welcome further dialogue with the Working Group in regard to these issues and ensuring that public hospitals are not disadvantaged through the proposed reforms.

Public Hospitals

Australia's public hospitals are world class and the mainstay of acute care for the majority of Australians, particularly the most vulnerable members of our society. In this regard, timely access to high quality care is dependent on public hospitals being able to recruit and retain sufficient numbers of medical practitioners and other staff.

There is increasing pressure on the public hospital system in Australia, which has been the subject of constant reform – often with little real clinical input. Public hospitals operate around the clock with unsociable and long hours being well known features of work in this environment. There is constant pressure on medical practitioners and this is widely recognised as a significant disincentive to work in this sector. There is no credible argument that public hospitals are over-funded. Indeed, the evidence is to the contrary.

Staffing in public hospitals

Public hospitals are staffed by highly committed and capable medical practitioners. Not only do they deliver high quality patient care, they also play a significant role in teaching and training the next generation of medical practitioners.

Many medical practitioners earn significantly higher incomes in the private sector than they would working in public hospitals. Dedication to patient care, opportunities to undertake research as well as teaching and training are key motivations for medical practitioners to work in this sector. However, they deserve to be fairly remunerated for their skill and experience. Salary packaging and Fringe Benefit Tax (FBT) exemptions offer one means for remuneration to remain competitive relative to the private sector.

The tax concessions achievable under the current system of salary packaging and FBT exemptions are an incentive to medical practitioners to enter into, and remain in, public practice.

Paragraph 128 of the discussion paper notes:

> *Anecdotal evidence suggests that salary sacrificing is utilised by eligible employers as a method of attracting employees by offering packages that compete with those offered by the commercial sector.* [1]

We would agree with this statement. Should these be taken away or altered to the detriment of medical practitioners, then Governments will either need to increase funding to compensate for these changes or face the prospect of losing an increasing number of medical practitioners to the private sector. The latter has obvious implications for access to care for patients. For example, the dedication of part time specialists in public hospitals is vital to the delivery of outpatient care and elective surgery. These specialists have options and any change to salary packaging on FBT exemptions will lead to some leaving or limiting their public practice.

If the current supply of medical specialists decreases, one could predict a lengthening of waiting lists for elective surgery and outpatient clinics. Hospitals are already under significant strain in this area.

The ability to supervise and train the existing number of junior doctors may be compromised if either of the level of specialist support or the level of public hospital

[1] Not-for-profit Sector Tax Concession Working Group discussion paper, par 128.

activity are to decrease. This will lead to a further erosion of the capacity of our public hospital system to teach and train the next generation of medical practitioners or ensure the high standards of safety and quality that currently exist With the increasing number of junior medical practitioners entering the workforce and requiring specialist training, it is essential that clinical supervisors and teachers remain actively employed within the public hospital system. This applies for other health professionals including nurses and allied health professionals.

Changing the benefit to another form (eg to some form of allowance) when a change is not indicated has little potential to benefit the community but a great potential to introduce unintended consequences.

Regional areas

Regional public hospitals will be particularly susceptible to disturbances to the current system of concessions. For medical practitioners, particularly young doctors, moving to regional areas can be made more attractive with salary packaging available for rent, mortgage and special provisions for remote housing. Additional challenges to attracting professional couples and families to relocate to regional and remote Australia include reduced or absent employment opportunties for professional partners and the increased costs in travelling for Continual Professional Development or reuniting with family for holidays. The current salary packaging concessions help to offset this loss of income and the increased costs associated with accomodation.

Without this, regional hospitals would find it even more difficult to attract and retain staff. See, for example, an article in the Mildura Weekly dated 7 Sept 2012 where the following is stated in relation to a major regional hospital that is not able to provide salary packaging:

> 'It's been argued the lack of salary packaging …is a major deterrent to attracting more doctors, surgeons and specialists to the facility.' [2]

Hospitals, especially those in rural and regional areas, are extremely reliant on salary packaging to attract visiting and locum medical staff. Not only are these medical practitioners essential to the provision of day to day services, they support access to leave for local medical staff and can play a role in reducing the burden of after hours and on-call work. If this is disturbed there is a significant likelihood that, not only will these hospitals struggle to attract visiting and locum medical staff, they will also struggle to recruit and retain medical practitioners in general due to concerns over workload and the potential for burn out. This may leave vulnerable individuals and communities without quality ongoing health care.

Flow on benefits

Benefits that encourage medical practitioners to work in public hospitals would be viewed by most in the community as a positive. FBT exemptions and packaging

[2] http://www.milduraweekly.com.au/2012/09/07/stronger-voice-and-more-influence/

arrangements are not exclusive to medical practitioners. They also apply to other staff critical to excellent patient care including nurses, allied health staff, medical adminsitraion and other clinical support staff incluidng aides, kitchen support staff and cleaners.

Administrative burden and cost to hospitals

The discussion paper highlights that administering salary packaging can generate 'considerable compliance burdens on eligible entities'[3]. We are not certain as to whether the authors of the discussion paper are referring to public hospitals with this comment, as in many cases the cost of administering salary packaging has been addressed through the appointment of third party providers and in other circumstances, has been minimised by the use of in-house providers who operate efficiently and at minimal cost.

Change impacting on legal entitlements

Salary sacrifice arrangements are frequently provided for in enterprise agreements[4] and, in this regard, many state enterprise agreements have only just been concluded. Changes to salary packaging would leave salary packaging entitlements within these industrial instruments in a difficult legal position. It would result in the risk of industrial disputation at a time when the acute health system is seeking support of all staff to operate more efficiently and effectively.

With these arrangements having been in place for some years, it is arguable that the cost of disturbing them would actually be higher than any benefit gained. Certainly, this is a key issue for the Working Group to consider.

Importantly, the arrangements make working in public hospitals more attractive with little compliance burden. This allows them to attract appropriate staff, while ensuring funding to other vital areas of the hospital such as equipment, pharmaceuticals and capital works.

ASMOF and the AMA are concerned that any disturbance to the current arrangements is likely to lead to compliance and adjustment costs, which will outweigh any short term financial gain.

Meal allowances and other benefits

Much has been said in the media and elsewhere about benefits such as meal entertainment and venue hire, which can be packaged over the $17,000 grossed up limits.

The paper notes:

[3] Not-for-profit Sector Tax Concession Working Group discussion paper Par 141 p38

[4] See for example, Victorian Public Health Sector (AMA Victoria) - Doctors In Training - Multi-Enterprise Agreement 2008-2012, cl 30.

> *There is considerable anecdotal evidence to indicate that some relatively high-income individuals receive significant benefits from the use of uncapped meal entertainment and entertainment facility leasing concessions.* [5]

We acknowledge the potential for this situation, but note the evidence is anecdotal. It is trite to develop public policy on anecdotal evidence when the contrary can also be said. Long, unsociable hours mean that medical practitioners are limited in accessing these benefits. Apart from a few isolated cases reported in the media, those who can use this benefit appear do so in moderation.

The AMA and ASMOF note the following relevant consultation questions and responds as follows:

Is the provision of FBT concessions to current eligible entities appropriate? Should the concessions be available to more NFP entities? (p43)

These concessions should remain available to the current NFP entities. We have no objection to them being made available to other entities provided it is without detriment to the current system.

Q 38 Should FBT concessions (that is, the exemption and rebate) be phased out? (p43)

FBT concessions should not be phased out and if any change to tax concessions is deemed appropriate on the grounds of the efficiency of the tax system, they should be implemented on a cost-neutral basis to the individual with matching compensation for any concessions that are withdrawn or curtailed.

Q 39 Should FBT concessions be replaced with direct support for entities that benefit from the application of these concessions? (p43)

FBT concessions should not be replaced with direct support for the entities involved. The benefits associated with these exemptions assist in maximising the supply of public sector medical services to the community. The risk is that changing the benefit may upset the supply whilst entities attempt to reconfigure incentives to maintain and grow staffing in highly technical areas, leading to additional compounding staffing costs to an already stretched public hospital system.

Should FBT concessions be replaced with tax-based support for 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? (p44)

A system of refundable tax offsets is only likely to cause higher compliance costs to employers. The public hospital system is exempt from income tax and could not benefit from any income tax or offsets to the employer. A direct offset to employees would increase the administration burden to individuals. In real terms it would be impossible to

[5] Not-for-profit Sector Tax Concession Working Group discussion paper Par 140 p38.

predict the amount of individual tax offsets required to compensate an individual for the loss of salary packaging benefits which currently are in addition to the FBT caps such as meal entertainment.

We do not object to tax free allowances, however, we would note that these should be implemented on a cost neutral basis and their real value be at least equivalent to the benefits available under salary packaging arrangements.

Deductible gifts

We also note concerns regarding deductible gifts, where any changes also have the potential to effect public hospitals.

Were the deductible gifts concession removed or curtailed, the likely impact would not fall on donors. Rather it would fall on the recipients of the donations, with donors less able and less willing to give as a result of the changes. Again, in the case of public hospitals, there is a potential downstream effect for both the Commonwealth and state/territory governments who would be called upon to make up the revenue shortfall.

We understand that some public hospitals are classed as public benevolent institutions (PBIs) and do enjoy the PBI concession on deductible gifts. Any curtailment of the concession could harm these hospitals financially and this is an area of concern to us.

Due consideration should be given to the connection between the FBT law and Deductible Gift Recipient (DGR) status. The ATO currently determines entitlement as a public hospital to FBT concessions as being prima facie evidence of entitlement to DGR status.

Conclusion

Any loss or adjustment to the current system of tax concessions is likely to make it harder for the public hospital sector to offer competitive employment conditions in comparison to the private sector, making recruitment and retention more difficult in a sector that faces challenges with medical staffing.

The continued provision of quality patient care in public hospitals is dependent on a cohort of committed medical practitioners and clinical staff. The provision of salary packaging arrangements to medical practitioners is a key incentive to attract medical practitioners to the public system. To remove it or disturb it in any way is likely to lead to many medical practitioners exercising their right to choose employment in the private sector, leaving the public sector struggling to attract and retain clinical staff.

In the absence of additional Government funding, public hospitals would not have the funds to compensate staff for the loss or curtailing of salary packing arrangements, particularly in the current tight fiscal environment.

The AMA and ASMOF's position is that the current tax concessions available to the public hospital sector should not be changed and deductible gift status, where it exists for public hospitals, should remain in place. However, if as a result of the review, these

concessions are removed or curtailed, there should be appropriate compensation from the Commonwealth Government so that it is implemented on a cost neutral basis. In this regard, any such reforms should be developed in close consultation with the medical profession.

Yours faithfully

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Federal AMA President

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