



**ACSA response to Exposure Draft Legislation
Tax and Superannuation Laws Amendment
(2015 Measures No. #) Bill 2015: Limiting fringe benefit tax
concessions on salary packaged entertainment benefits**

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ACSA CONTACTS

Adj Prof John G Kelly AM, CEO

jkelly@agedcare.org.au 0419 445 238

Heather Witham, Manager, Government Relations and Policy

hwitham@agedcare.org.au 0437 911 276

AGED AND COMMUNITY SERVICES AUSTRALIA

Level 1, 10 Thesiger Court Deakin ACT 2600 (02) 6282 7827 www.agedcare.org.au

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ABOUT ACSA

Aged and Community Services Australia (ACSA) is the leading national peak body for aged and community care providers. It represents church, charitable and community-based organisations providing housing, residential care, community care and home support services to older people, younger people with a disability and their carers.

ACSA members provide care and support in metropolitan, regional, rural and remote regions across Australia.

The ACSA Federation is made up of the following members:

- Aged and Community Services Association of NSW & ACT (ACS NSW&ACT)
- Aged and Community Services SA & NT (ACS SA&NT)
- Aged and Community Services Tasmania (ACS Tas)
- Aged and Community Services Western Australia (ACS WA)
- Aged and Community Services Australia - Victoria (ACSA Vic)
- Aged and Community Services Australia - Queensland (ACSA Qld)

Mission-based and other not-for-profit (NFP) aged care organisations are responsible for providing services to those older Australians who are most in need. These organisations are visible and highly accessible in the community and as a result, the public relies on them for service, support and care. The broad scope of services provided by ACSA's membership and the leadership they display gives it unique insights into the challenges and opportunities that come with the ageing of the population.

INTRODUCTION

ACSA's mission based and not-for-profit members utilise their tax benefits every day to provide care and support to vulnerable older Australians with significant needs and to invest in service innovation and improvement.

As a result, ACSA recognises the opportunities and challenges posed by the ageing of the population and welcomes this opportunity to contribute to the tax discussion in Australia. It is essential to maintain a tax system that is both equitable and sustainable, while able to support the needs of the population into the future.

This submission draws attention to the significant contribution of not-for-profit (NFP) organisations generally and church, charitable and community aged care organisations in particular, and highlights the importance of the FBT concessions they receive through salary packaged entertainment benefits.

The submission also discusses the ageing of the population and the need for a far larger workforce to care for frail older Australians and the significant benefits FBT concessions play in recruiting and retaining the care workforce.

ACSA has made a response to the "Re:think" Tax discussion paper on the broader issues of tax concessions for the NFP sector. ACSA was disappointed that the Australian Government announced the capping of the FBT concession for salary packaged entertainment benefits at \$5,000 in the 2015-16 Budget. The timing of this announcement, less than a month before the closing date for submissions to the Tax Discussion Paper, meant that the decision was not considered as part of broader taxation reform, based on community feedback.

SUMMARY AND RECOMMENDATIONS

As the number of older Australians increases and the demand for aged care services rises, there will be a commensurate increase in demand for a well-trained aged care workforce. The Productivity Commission (PC) anticipates that the aged care workforce will need to more than quadruple by 2050, at a time when the overall employment to population ratio will be declining. Aged care employers will be under pressure to offer terms and conditions which will attract sufficient numbers of workers.

As the PC points out, improved employment terms and conditions are the foundation for building a larger supply of workers in the aged care sector.¹ The PC proposed that scheduled care prices take into account the need to pay fair and competitive wages to nursing and other care staff. The PC also supported the development of more attractive career paths, opportunities for professional development, improved managerial expertise and a review of registered training organisations to ensure the quality of delivery of accredited courses.²

Based on the projections for service growth to 2023, it is estimated that there will need to be an additional 55,770 FTE care workers (37,620 in residential aged care and 18,150 in community aged care) over the decade from 2013 to 2023.³

By 2050, it is expected that over 3.5 million older Australians will access aged care services each year, with around 80% of services delivered in the community.⁴

¹ http://www.pc.gov.au/_data/assets/pdf_file/0004/83380/aged-care-trends.pdf

² Productivity Commission, *Caring for Older Australians*, p. XLI.

³ http://www.agedcare.org.au/news/copy_of_2014-news/acsa-position-paper-the-aged-care-workforce-in-australia/view

⁴ Productivity Commission, *Caring for Older Australians*, August 2011, xxii.

NFPs provide about 80% of community aged care and 60% of residential aged care in Australia, and would be the largest recruiter of aged care staff. Additionally, in regional Australia, aged care providers are often one of the largest employers within the small local community, contributing to the cohesion and economic fabric of the local community.

In order to recruit and retain a quality care workforce FBT concessions provide a significant recruitment and retention incentive. It also forms an important part of the salary of lower paid workers in the sector, who are predominantly women. One aged care organisation presented information that for about 10% of their staff it makes their pay effectively 3.7% higher. The average salary in this organisation is \$49,400 with an average benefit of \$7,800.

The three components of salary packaging, meal entertainment and entertainment facility leasing are means by which an employer can increase a person's "take home" pay. If any of the three options are removed, it significantly reduces NFPs ability to remain competitive in the labour market.

The introduction of an annual cap on salary sacrificed meal entertainment and entertainment facility expense benefits will help improve the transparency and integrity of the tax system as it applies in the NFP sector. However, the proposed \$5,000 'grossed-up' cap (equivalent to \$2,550 in expenses per annum) is more restrictive than the \$10,000 cap which was based on the average levels of salary packaged entertainment benefits currently provided to staff in the NFP sector.

In consultation with aged care and salary packaging providers ACSA understands that the average combined spend across both benefits is in the range of \$4,500-\$5,000 per annum (equivalent to around \$9,000 to \$9,500 grossed up).

ACSA members have also indicated a desire for the government to consider an increase in the value of the existing \$30,000 FBT-exempt cap as this has been significantly eroded by inflation since its introduction.

ACSA RECOMMENDATIONS THAT:

- **the Australian Government lifts the entertainment benefits FBT cap to \$10,000 grossed up.**
- **the cap be indexed annually to ensure the tax benefit is not eroded over time.**
- **the Australian Government increases the value of the existing \$30,000 FBT exemption cap as this has been significantly eroded by inflation since its introduction.**

THE NOT-FOR-PROFIT SECTOR

Not-for-profit (NFP) organisations make an important and intrinsic contribution to Australian life. It is important to acknowledge that as well as providing essential services NFPs also contribute greatly to public and community life in Australia, in a way that very few, if any, other organisations are able or inclined to replicate.

As the PC noted in its 2010 report on the 'Contribution of the Not-For-Profit Sector', the role of the NFP sector in "promoting social cohesion, raising civic awareness, and facilitating participation in community activities" produce economic as well as social benefits,⁵ which have either a direct or flow-on impact on all Australians. It is precisely because of this unique contribution that there has been such strong agreement about the benefits of granting tax concessions to the sector.

This approach – which includes a broad range of concessions and exemptions at all levels of government – is both valid and necessary because NFP organisations are uniquely placed to deliver social benefits that government and for-profit organisations are not able to contribute.

A prime example of the benefits of this approach is the arrangement that enables staff from not-for-profit organisations to 'claim' expenses up to a capped amount each fringe benefit tax (FBT) year. In effect, these concessions enable employees of non-profit organisations to increase the income of their employees by paying particular expenses using pre-tax dollars. This in turn is essential to the recruitment and retention strategies of these organisations that enable them to provide the vital services in which they excel.

AGED CARE IN AUSTRALIA

The *Report on the Operation of the Aged Care Act 2013/14* shows the provision of aged care in Australia as follows:⁶

In 2013–14:

- over 231,500 people accessed permanent residential care;
- over 83,100 people accessed home care packages;
- over 23,500 people accessed transition care; and
- over 775,900 people aged 65 years and over (50 years and over for Indigenous Australians) accessed Home and Community Care (HACC) services.

As at 30 June 2014, there were 259,788 operational aged care places, including 192,834 residential aged care places, and 66,954 home care places, as well as 4,000 transition care places.

AUSTRALIANS ARE LIVING LONGER

As at 30 June 2014, 15% of Australia's population were aged 65 years and over (3.5 million people) and 1.9% were aged 85 years and over (456,000 people). By 2024, it is estimated that 17% of the population will be aged 65 years and over (4.7 million people).⁷

Life expectancy at birth is 79.9 years for males and 84.3 years for females, with both expected to live many years beyond 'retirement'. Of people aged 85 years and over, there are 1.8 times as many women as men.

⁵ Productivity Commission (2010). *Contribution of the Not For Profit Sector: Productivity Commission Research Report*, Commonwealth of Australia, 2.

⁶ https://www.dss.gov.au/sites/default/files/documents/11_2014/2013-14_report_on_the_operation_of_the_aged_care_act_1997-1.pdf

⁷ Revised population projections based on 2012 Estimated Resident Population prepared for the Department of Social Services by the Australian Bureau of Statistics, according to assumptions set by the Department.

Population ageing is changing the ratio of working age to retirement age for people. For each older person (aged 65 years or more) in 2014, there were 4.5 'traditional' working-age people (15-64 years) and by 2024, this ratio will decrease to 3.7 'traditional' working-age people for every older person. This change is opening opportunities for older people to continue participating in the workforce and, at the same time, will potentially reduce the number of informal carers.

AGED CARE WORKFORCE

According to an Aged Care Workforce report conducted on behalf of the Australian Government, the number of direct care staff working in residential aged care rose from 78,849 in 2007 to 94,823 in 2012.⁸ Over the same period, the number of direct care staff working in Commonwealth subsidised community Home Care Packages rose from 74,067 to 93,359.

The same study also found that the vast majority of direct care staff in both residential (89%) and community (greater than 90%) aged care settings are female. The aged care workforce – both in residential and community settings – is older than the overall workforce in Australia and, like the population, is itself ageing.⁹ These staff members have high levels of work-related qualifications. In 2012, 88% of direct care workers in residential aged care and 86% of the direct care workforce in community aged care held post-secondary qualifications.

The aged care and services industry in Australia needs to grow significantly in the coming years and decades. According to government projections, there is a need for an additional 75,000 residential aged care places and a further 85,000 home care packages over the 10 years from 2013 to 2023.¹⁰

The Australian Government has estimated that the number of aged care workers will grow by an average of 2.5% every year for the 40 years to 2050, peaking at 3.6% in the current decade.¹¹ This projection is supported by the Australian Workforce and Productivity Agency, which has predicted that the number of 'aged and disabled carers' will grow at a rate of between 2.2 and 4.4% each year from 2013-2025 with a growth rate of 1.4-3.8% for registered nurses.¹²

Based on the projections for service growth to 2023, it is estimated that there will need to be an additional 55,770 FTE care workers (37,620 in residential aged care and 18,150 in community aged care) over the decade from 2013 to 2023.¹³

⁸ King, D., Mavromaras, K., He, B., Healy, J., Macaitis, K., Moskos, M., Wei, Z. (2013). 'The aged care workforce 2012 final report'. Canberra: DoHA.

⁹ King, D., Mavromaras, K., He, B., Healy, J., Macaitis, K., Moskos, M., Wei, Z. (2013). 'The aged care workforce 2012 final report'. Canberra: DoHA.

¹⁰ Aged Care Financing Authority. (2013): 'Inaugural report on the funding and financing of the aged care sector'. Canberra: Australian Government Department of Health and Ageing.

¹¹ Australian Government Department of Health and Ageing. (2010): 'Submission to the Productivity Commission inquiry into Caring for Older Australians'. Canberra: DoHA.

¹² Australian Workforce and Productivity Agency. (2013): 'Industry snapshot 2013: Health care and social assistance'. Canberra: AWPA.

¹³ http://www.agedcare.org.au/news/copy_of_2014-news/acsa-position-paper-the-aged-care-workforce-in-australia/view

THE EFFECT OF CAPPING THE FBT CONCESSION

ACSA understands the rationale of the proposed legislative change, however, in the aged care sector, many employees who access this benefit are direct care staff on lower incomes and they utilise this benefit within their means. According to the Aged Care Workforce Census and Survey, this change could affect 82,320 care staff working in residential care and 71,000 in community aged care.¹⁴

ACSA agrees that the introduction of a cap is necessary to prevent excessive benefits being provided tax-free but argues the \$5,000 cap is too low and would have negative impacts on the recruitment and retention of NFP aged care staff. ACSA believes a \$5,000 cap will have a significant impact on the take-home-pay of employees who can least afford it. ACSA argues that a cap of \$10,000 is more appropriate and we urge the Australian Government to reconsider its decision. ACSA also recommends that the cap be indexed annually in line with CPI to ensure that the benefit is not eroded over time.

ACSA understands the Exposure Draft Legislation provides that any excess over the \$5,000 cap can fall under the existing \$17,000/\$30,000 caps and therefore won't necessarily be subject to FBT. However, most employees would already be using the full \$17,000 or \$30,000 caps so they are likely to have little if any opportunity to do this.

ACSA also notes that the proposed legislation will require these benefits to become reportable fringe benefits on their payment summaries (group certificates). Reportable fringe benefits are taken into account in a number of government income tests – so for employees it could push them over a threshold which means that they may be no longer entitled to some form of government benefit or at least will have the benefit reduced.

It is also worth noting that there may also be a very limited budgetary impact of the cap. If the average worker is currently salary-sacrificing \$10,000 on entertainment benefits, and therefore has an increase in taxable income of \$5,000 following the cap's introduction, the net tax increase is \$1,850 (on the 37c tax rate). Assuming that every single potentially affected worker is affected, and that there are no behavioural changes resulting from the taxation change, this amounts to \$283.6 million – or \$1.1 billion over a four-year period. In an environment where the cumulative deficits projected over the four-year estimates period is \$68.9 billion, the contribution of the cap is very low. Given that the Health and Social Services sector has lower average pay, the sector is also being asked to bear a disproportionate burden – the measures have limited impact on the deficit, but a significant impact on those affected.

The above scenario is also supported by modelling from the McMillan Shakespeare Group. In their 2012 submission¹⁵ to the Tax Concessions Working Group, Lateral Economics then estimated that a \$10,000 grossed up cap on meal *and* a similar but separate cap on venue hire would save government \$90 million per annum.

Also, according to the *Tax Expenditures Statement 2014, FBT Concession Estimates* it is stated that these concessions will cost \$605 million in 2016-17. However, in the recent 2015/16 Budget it is stated that the cap will only save \$85 million per annum.

¹⁴ King, D et al (2012). 'The Aged Care Workforce, 2012 – Final Report', Australian Government Department of Health and Ageing.

¹⁵ McMillan Shakespeare Group, Submission to the not-for-profit Sector Tax Concessions Working Group, Fairer, simpler and more effective tax concessions for the not-for-profit sector, December 2012.