

21st August 2015

General Manager
Law Design Practice
The Treasury
Langton Crescent
PARKES ACT 2600

Via email: taxlawdesign@treasury.gov.au



Re: Limiting fringe benefits tax concessions on salary packaged entertainment benefits

To whom it may concern,

Thank you for seeking comment on the *Tax and Superannuation Laws 3 Amendment (2015 Measures No. 4) Bill 4 2015: Limiting FBT concessions on 5 salary packaged entertainment benefits*.

Leading Age Services Australia (LASA), the voice of aged care, is the peak body for all retirement living, home care, and residential aged care providers.

On behalf of our members, we are committed to improved standards, equality and efficiency throughout the age service industry. We advocate for the health, community and accommodation needs of older Australians, working with government and other stakeholders to advance the interests of all age services providers, and through them, the interests of older Australians.

Our members operate under both Not For Profit (NFP) and private provision business models. Across the industry, about 60% of age service providers are NFP and 40% are private provision.

Workforce attraction and retention is a major challenge for all age service providers, and salary package components are key to this.

On behalf of our members LASA aims to ensure the industry has:

- An age services workforce that is available, skilled, resourced and valued to be able to meet growing demand for services by our ageing population.
- A workforce that is equipped to best meet the changing needs of all older Australians regardless of their circumstance or background.
- funding and structure to perform highly in the areas of worker skills, health, safety and positive work life balance via consistent and appropriate training delivery which ensures worker capability.

This paper talks to the actions and strategies that are required to be developed to ensure the age services industry has the resources necessary to meet the needs and demands of all older Australians.

In this context it would be remiss not to acknowledge that recent government decisions and successive budget decisions have stripped more than \$700 million from the overall fiscal position of age service providers. The combined effect of these changes has driven a negative impact on all age service providers and their ability to attract, retain and remunerate staff. This income loss has come at a time when the demand for age services continues to escalate and the acuity of residents continues to climb.

An ageing population requires a strong age services sector

Australians are living longer and continue to have one of the longest life expectancies in the world. The number of Australians aged 65 and over is projected to more than double by 2055. In 2055, it is predicted that around 40,000 people will be aged 100 and over¹. The Productivity Commission anticipates that the aged care workforce (workforce) will need to more than quadruple by 2050, at a time when the overall employment to population ratio will be declining. By 2050 the workforce is expected to grow from an estimated 352,100 (2012 estimate) to 827,100 employees².

This projected increase in demand for age services cannot be overlooked. Actions and strategies need to be developed to ensure the age services industry has the resources necessary to meet the needs and demands of all older Australians. It is difficult to precisely calculate the value-add contributions of the NFP sector but we do know that in many cases they cannot be efficiently contracted for, and may not be provided by, the private sector.

More than 240,000 workers are employed in direct care roles in the aged care sector. Of these, 147,000 work in residential facilities, and 93,350 in community outlets³.

An available, accessible and appropriately skilled workforce is a fundamental requirement of the growing age services industry.

Residential, home and community care providers continue to struggle to access appropriately skilled and available staff. All providers need support, funding and new initiatives so as to adequately fulfil current and future staffing needs.

The age services workforce has a 'high commitment to aged care which is likely to be related to their satisfaction with, and experience of, doing the work.' It should however be noted that 'workers appeared satisfied with all aspects of their work except with pay'³. Not a particularly blinding insight, but one that will be impacted by any changes to the fringe benefits tax concessions.

Given that a great proportion of industry NFP organisations are making this benefit available to their employees, of which approximately 77% utilise the MEA exemption, it can be seen that this is an embedded method to attract and retain staff in a low-paid sector where demand for services and workers is Australia's fastest growing. We know from anecdotes that families working in the age services industry utilise current tax exemptions to contribute to a family holiday, entertainment or meals that would otherwise not be possible.

Quite apart from retaining existing workers, workforce planning entails finding new workers and this is particularly important in an industry that is growing as rapidly as aged care.

Among our residential care members three-quarters identify skill shortages with evidence indicating that there is often shortages in multiple occupations. Although skill shortages were identified across all occupations, a higher proportion of residential facilities reported them for Registered Nurses (63%) and Personal Care Attendants (49%) than for Enrolled Nurses (33%) or Allied Health Workers (20%).

This compares with half of all community outlets identifying skill shortages, mostly in a single occupational group. Around a third of community outlets identified skill shortages amongst Community Care Workers, with 15 per cent reporting shortages for Registered Nurses.

Again of the less prevalent causes, low wages were identified by 15 per cent of facilities or community care outlets as being a reason for difficulty in attracting staff further underscoring the importance of Federal and State governments ensuring all aged care employers are given an equal opportunity to receive/apply for grants, concessions, supplements and exemptions.

It is anticipated that the increasing demand for Nursing and Allied Health Professionals in the age services industry will be further exacerbated by increased competition for staff with the staged introduction and upscaling of the National Disability Insurance Scheme (NDIS).

With the clear move towards consumer directed care and client determined service outcomes LASA advocates for a national industrial relations framework that dovetails with taxation law to protect and preserve measures that enable workforce availability and flexibility.

Indicative industry data for 10,000 staff with fringe benefits tax concessions

Sample size = 10,000 employees

Employees utilising FBT meals and entertainment = 7,723

- It is worthy to note that 67% of the industry claim at or below the \$5000 (net) band for the FBT MEA (refer to Figure 1). This would equate to a grossed up figure of ~\$10,600.
- If we include figures out to the \$7500 band (this would equate to a grossed up figure of ~\$16,000) (refer to Figure 2) the measure would capture 80% of the industry usage.

Figure 1: Uptake of FBT MEA by claim band

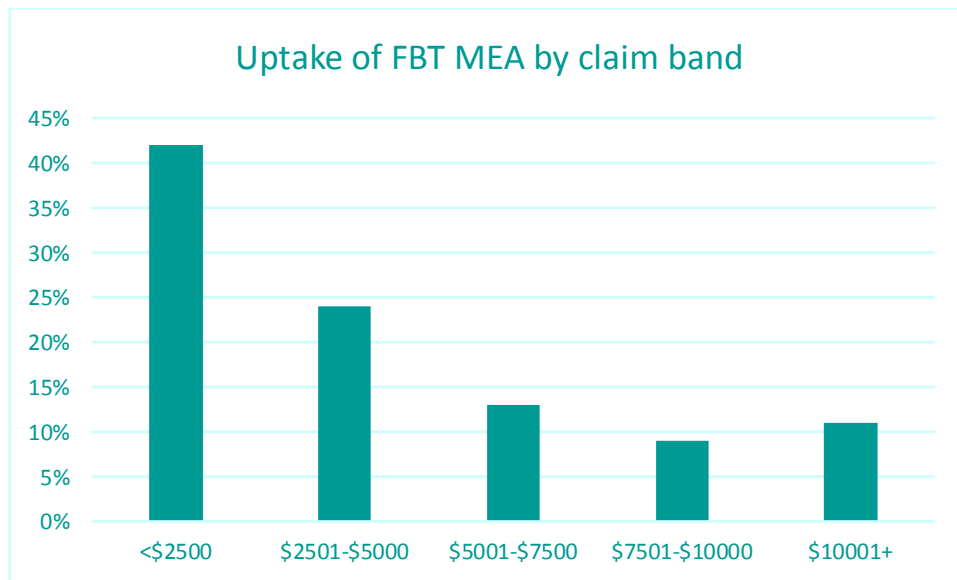
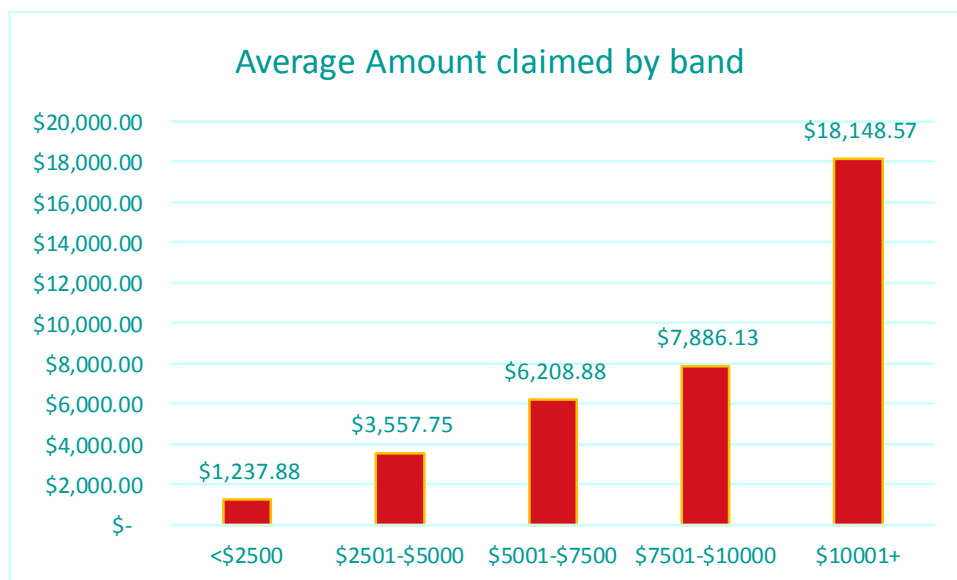


Figure 2: Average Amount claimed by band



Recommendations

LASA recommends:

1. *That the Federal government consider the social and economic benefits of granting organisations in high growth industries such as age services, disability and community services, competitive neutrality through ensuring all industry employers, regardless of operating type, are given an equal opportunity to receive/apply for grants, concessions, supplements and FBT exemptions. This approach will maintain the purpose of taxation benefits to assist all age services, disability and community service organisations to meet demand within their industries and also to compete with corporate and government sectors to attract and retain skilled staff. Doing more with less is no longer enough.*
2. *That the Federal government maintain the purpose and value that the Fringe Benefits Tax (FBT) concessions on salary packaged entertainment benefits offers the sector. The real value of the \$30,000 limit (grossed up nominal value per employee) continues to erode, despite a commitment at the time of its introduction in 2001 to provide regular adjustment. We suggest yearly indexation against the consumer price index.*
3. *Options to control abuse of current exemptions:*
 - a. *Cap the Meals and Entertainment Allowance (MEA) at \$10,600 grossed up to provide the majority of employees' access to exempt benefits totalling \$5000. This measure would cover more than 70% of existing user's average claim. This amount should be indexed yearly to keep pace with consumer inflation; and/or*
 - b. *The Federal government should lift the current cap on the FBT 'living expenses' rebate of \$30,000 to at least \$40,000 grossed up value per employee. Given the low income nature of the age services workforce, LASA is of the opinion that this approach would have more impact and significance, with more controls, than simply capping the exempt benefit. This amount should be indexed yearly to keep pace with consumer inflation.*

This approach will retain the value of the benefit, prevent its misuse and reduce administration and compliance costs.

This approach will maintain the purpose of benefit to assist NFP organisations to attract and retain skilled staff.

LASA understands the underlying concerns arising from gaming and misuse of the existing measure but does not support the proposed final position outlined in the *Tax and Superannuation Laws Amendment (2015 Measures No.4) Bill 2015* as it currently stands.

The aged care sector in Australia is struggling to meet the increasing needs of an ageing population, with limited resources. Retaining and upgrading tax concessions for age service organisations will play a key role in ensuring a viable future aged service sector and assist with the Federal government in implementing its policy objectives. This is in the public interest as the age service industry is critical to meeting increased demand from population ageing and Australia, which prides itself on being a civil society, must ensure that we are structured to bear the impacts that ageing will have on the social and economic wellbeing of Australia.

While this paper advocates strongly for preservation of FBT benefits and exemptions for age service NFPs, it should be noted that workforce attraction, recruitment and retention is a critical issue for all providers and as such LASA supports and encourages fairness and equity across the industry. LASA encourages Federal and State governments to ensure all aged care employers, regardless of operating type, are given an equal opportunity to receive/apply for grants, concessions, supplements and exemptions.

Tax concessions and exemptions for the Not For Profit (NFP) age services sector are critical in the sourcing and maintaining of a sustainable workforce, something which is a significant issue for the age services industry as a whole. To paraphrase Minister Kevin Andrews *“free citizens should ensure that the State is an enabler of the other spheres of human activity, not the master of them”* and in this way the enabler is concessions and exemptions for NFPs to deploy a sustainable workforce for civil society.

To this end the current tax concessions and exemptions are necessary to help NFP age service organisations maximise their charitable purpose and to enhance both the social and economic fabric of Australian society.

Once again thank you for the opportunity to submit the Leading Age Services Australia member position to this review. We commend our recommendations to the Treasurer.

Sincerely,



Patrick Reid B.Pharm MPG MPS MRPharmS FACP FAIM MAICD
Chief Executive Officer
Leading Age Services Australia

References:

1. 2015 Intergenerational Report (<http://www.treasury.gov.au/PublicationsAndMedia/Publications/2015/2015-Intergenerational-Report>)
2. <http://www.myagedcare.gov.au/>
3. The Aged Care Workforce 2012 Report
(http://apo.org.au/files/Resource/DepHealthAgeing_AgedCareWorkforce1012_2103.pdf)