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Dear Mr. Reid,

Exposure Draft Taxation Administration Amendment (Disclosure of Information) Regulation 2016

The Salvation Army, Freedom Partnership to End Modern Slavery, and the Walk Free Foundation welcome the opportunity to comment on the Exposure Draft Taxation Administration Amendment (Disclosure of Information) Regulation 2016 (the Exposure Draft Regulation).

The Salvation Army and Walk Free wish to raise one concern with regard to the Amendment, that of potential adverse impacts on vulnerable visa holders who are unknowingly or unwillingly working in breach of one or more laws, including tax laws. International evidence¹, as well as our own experience working directly with victims of modern slavery, indicates that it is a common and effective tactic of human traffickers to induce a victim into unlawful status as a means to maintain them within an exploitative condition. The Productivity Commission's recent report on the Workplace Relations Framework also acknowledges this practice occurs and renders temporary migrant workers more vulnerable to exploitation, stating:

*"An employer may threaten to report a migrant who has breached their visa conditions to DIBP. These migrants, who may have been...coerced into their breach, can face significant penalties under the Migration Act, including deportation. These penalties may deter a migrant from reporting their exploitative employer if they outweigh the benefits."*²

We note that Taskforce Cadena is well-positioned to identify potential victims of both labour exploitation and more severe forms of abuse, including slavery, forced labour and servitude. However, we are less certain about whether the Taskforce is designed and implemented to succeed in the effective engagement and identification of victims of these crimes, many of whom fear and mistrust law enforcement due to corruption in their home country. Reliant on their employer's sponsorship and knowing the frequency and pace at which unlawful workers are removed from Australia, they are reluctant to complain and cooperate with authorities.

The Salvation Army, Walk Free and other organisations have raised concerns to Government over the past year via various inquiries and the National Roundtable on Human Trafficking and Slavery. We have alerted key Ministers and Departments to cases with indicators of exploitation and slavery where potential victims experienced adverse outcomes, including deportation and lost wages.

We are particularly concerned with the lack of alignment between the development and execution of

¹ United Nations Office on Drugs and Crime (UNODC) and United Nations Global Initiative to Fight Human Trafficking (UN.GIFT). (2009). *Anti-human trafficking manual for criminal justice practitioners*. Module 4; Dandurand, Y. (May 25, 2014). *Human trafficking for domestic servitude: Patterns of deception and coercion and their impact on victims*. Research note submitted to The Office to Combat Trafficking in Persons British Columbia; International Labour Office and European Commission (2009). *Operational indicators of trafficking in human beings*.

² Commonwealth of Australia. (2015). Productivity Commission Inquiry Report, Workplace Relations Framework. Volume 2, p 921. <http://www.pc.gov.au/inquiries/completed/workplace-relations/report>.

Taskforce Cadena and the National Action Plan to Combat Human Trafficking and Slavery (National Action Plan). We observe incongruence between activities being performed by the Department of Immigration and Border Protection and Taskforce Cadena and commitments delineated in the National Action Plan, including the detention and deportation of unlawful workers where indicators of slavery were present.³ We note that Item 59 of the National Action Plan states: “Ensure that any person in relation to whom indicators of trafficking are noted by the Department of Immigration and Border Protection is referred to the Australian Federal Police and, if both unlawful and assessed by Australian Federal Police as a suspected trafficked person, is granted a bridging visa and not detained.”

It is on this basis that we question whether there are adequate processes in place to ensure that (1) potential victims of trafficking are being effectively identified and not subjected to adverse outcomes, including deportation, loss of wages, and other penalties; and (2) that vulnerable visa holders who may have been coerced into unlawful arrangements, such as cash-in-hand payments, are being supported to report an exploitative employer, who would enjoy far greater rewards with far less risk than the worker. As the Productivity Commission acknowledged, workers will not report offences if the penalties outweigh the benefits.

In conclusion, it is imperative that any new information sharing arrangements do not add to the potential penalties for vulnerable workers, including victims of slavery, trafficking and labour exploitation.

The Treasury should seek to establish an explicit exemption to penalties for vulnerable visa holders who are found to have been forced or coerced into unlawful arrangements.

Further, we support the Uniting Church’s recommendation that no worker who has been coerced or deceived into accepting cash-in-hand arrangements should be prosecuted for tax evasion.

We note, however, that the Treasury’s ability to exclude such workers from these and other adverse outcomes relies heavily on the Taskforce’s effectiveness in engaging individuals to reduce fear and build trust. Indeed, doing so is essential to eliciting information that could be critical for the effective prosecution of major offenders. We strongly assert that improving the prosecution of and accountability for exploitative employers is a more productive use of Government resources and time than targeting those committing more minor offenses.

Finally, we would like to endorse the Law Council of Australia’s submission, particularly the section related to Privacy.

We acknowledge the Government’s efforts to hold exploitative employers accountable and would be happy to discuss any of these matters further with the Treasury. Thank you again for the opportunity to provide comment. The contact person for this submission is:

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³ Numerous charges after WA operation targets organised crime, ABC Online News 5 May 2014; Illegal workers caught, Sunraysia Daily 16 December 2014; Media Release: Illegal workers targeted nationally, Minister for Immigration, 28 May 2015; Alleged illegal farmworkers to be deported after police raids in Shepparton, Herald Sun, 1 June 2015; Four to be deported after slave-raid, Sky News, 20 November 2015.