

20 January 2021

Manager
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Individuals and Indirect Tax Division
The Treasury

By email: Selfedconsultation@treasury.gov.au

Dear Johanna, Hannah and Tim

Education and training expense deductions for individuals discussion paper

CPA Australia represents the diverse interests of more than 166,000 members working in over a 100 countries and regions around the world. Following our discussion with you on 18 December 2020, we make this submission on behalf of our members and in the broader public interest.

The Treasury **discussion paper** on education and training expense deductions for individuals (**the paper**) proposes allowing tax deductions for non-work-related education and training expense to encourage Australians to retrain and reskill to support their future employment and career (**the proposed policy**). Significant investment is made in education with the Federal Government **spending** almost \$40 billion on education each year and 530,000 Australians deducting over \$1 billion in work-related self-education expenses in **2017-18**, not including expenses related to formal education courses provided by professional associations.

While CPA Australia supports initiatives to assist Australians to re-skill and enhance their employment prospects, we do not believe that tax deductions are the most effective mechanism by which to achieve these goals. In the paper, there is limited discussion on the intended beneficiaries of the proposed policy, nor of the potential impact on Australia's productivity, competitiveness and employment levels. Further work to better define the policy intent, the anticipated outcomes and the target beneficiaries is required before determining the most appropriate policy design. Alternative mechanisms include tax credits, refunds, deferred deductions, Commonwealth-supported places and subsidies.

We believe that the policy should target underemployed, part-time and lower-skill level workers with the aims of improving their income-earning capacity and reducing their risk of medium or long-term unemployment. However, the proposed policy will primarily benefit those who are able to pay the upfront costs of training and who are already earning higher assessable income against which expenses can be deducted. Underemployed or low-income earners, including those outside the workforce, with little or no income tax liability will receive minimal or no benefit from such a deduction.

We also note the potential administrative and compliance challenges depending on how restricted the deduction will be. While the proposed policy removes the requirement to establish a nexus to assessable income, the suggested restrictions introduce different forms of complexity and may raise significant practical issues.

Our responses to the questions raised in the discussion paper questions are in the Attachment.

If you have any queries about this submission, contact Elinor Kasapidis, Senior Manager Tax Policy, CPA Australia, on 0466 675 194 or elinor.kasapidis@cpaaustralia.com.au.

Yours sincerely,

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Discussion questions

1. Given the significant government funding provided for education and training, is a new tax deduction the most effective mechanism to encourage Australians to retrain and reskill to support their future employment and career?

We do not believe that tax deductions are the most effective mechanism. Our reasons include:

1. Individuals with higher marginal tax rates receive a greater benefit from a tax deduction of up to 45 cents in the dollar (exclusive of the Medicare Levy), based on their marginal tax rate threshold for the year. On the other hand, those on lower incomes below \$45,000 may only get 19 cents in the dollar, or no tax benefit if their income is below \$18,200. As such, underemployed, part-time workers or lower-skill level employees will not be the main beneficiaries of this proposed policy. The relatively greater benefits flowing to taxpayers with higher incomes means tax deductions are not only ineffective, but arguably may also be seen as inequitable, in achieving positive outcomes for many Australians needing to re-skill or change careers.
2. Certainty is required for individuals investing in their education and courses may extend over multiple income years before completion. Underemployed, part-time and low-income workers experience greater employment uncertainty and are more vulnerable to loss of income. As such, when investing in a three-year course, they are less likely to be able to determine their tax benefit from the outset and will require certainty that the deduction will be available to them for the length of their course. Alternative mechanisms may be better suited to creating this important certainty.
3. In line with many recent government measures, the proposed policy appears to respond to the significant impacts of COVID-19 on the Australian labour market but is not time-limited. A permanent deduction for self-education expenses, regardless of the nexus to assessable income, is likely to cost the Australian public significant and growing amounts over time. Instead, consideration should be given to providing a temporary incentive to address the short- and medium-term challenges in the labour market without creating an ongoing expenditure burden or ineffective precedent in the tax system.
4. The delivery of education incentives through the tax system rather than the existing education funding framework adds complexity and may reduce government visibility over its education spending. Depending on the restrictions included in the proposed policy, this is likely to require, on a real-time and ongoing basis:
 - a. Determinations of areas of job growth by the National Skills Commission (**NSC**)
 - b. Assessment and targeting of vocational outcomes and industry training packages
 - c. Identification and management of education providers including at the sub-national level
 - d. Identification and management of courses including at the sub-national level
 - e. Adjustments for Commonwealth Supported Places (**CSPs**) and any other subsidies
 - f. Provision of student, course and provider information to the ATO for data-matching purposes
 - g. Taxpayer documentation and ATO verification of other related expenses.
5. Alternative mechanisms should be considered, and a comparative cost-benefit analysis undertaken before proceeding with the proposed policy. For example:
 - a. Tax credits, such as those used by Canada¹, may better address the perceived inequity of having disproportionate benefits flowing to individuals on high incomes. To target support to those on lower incomes, these credits can also be capped or include income thresholds, so that high income earners do not have or are limited in their access to the benefit
 - b. Refunds and rebates such as the now-defunct **Education Tax Refund** or lump-sums such as the **Education Entry Payment** may be more easily targeted to those who can benefit most and which will have a higher impact for those on lower incomes
 - c. Defer the deduction until income with the necessary nexus to the expenditure has been earned (i.e. they can claim the expense when they start earning related income) to bring the deduction into line with existing work-related expense rules, incentivise the individual to gain employment in that career and maintain the link to employment outcomes
 - d. Increasing the number of Commonwealth-supported places allows the government to directly invest in areas of predicted demand and support a larger number of students

¹ Canada uses a federal tuition or training tax credit system to encourage and help Canadians with their cost of education and training fees. See **Income Tax Folio S1-F2-C2, Tuition Tax Credit** and **Canada Training Credit**, Canada Revenue Agency

- e. Subsidies or grants paid to course providers which should lead to lower fees and enables the government to direct and oversee² funding.

2. Should any new deductions be targeted to courses delivered by education and training providers registered with the appropriate regulatory bodies?

We believe that limiting the deduction to nationally recognised training and industry training packages would exclude many high-quality, employment-driven and professional education and training providers who are not registered with the regulatory bodies listed in the paper, namely the Tertiary Education Quality and Standards Agency (**TEQSA**), Australian Skills Quality Authority (**ASQA**), Victorian Registration and Qualifications Authority (**VRQA**) or the Western Australian Training Accreditation Council (**TAC**).

Courses delivered by professional associations such as **CPA Australia** or corporate providers, including those offshore such as **Microsoft**, **CISCO** or **Intuit QuickBooks**, are co-designed with industry and can enhance job prospects for people entering those labour markets. Further, certain providers, including professional associations, and courses are regulated by other Australian government agencies or defined in legislative instruments. For example:

- the Tax Practitioners Board (TPB)³ and the Financial Adviser Standards and Ethics Authority (FASEA)⁴ are responsible for approving education courses and providers, and
- CPA Australia members fall under the definition of "qualified accountant" under **ASIC Corporations (Qualified Accountant) Instrument 2016/786** meaning that completion of the CPA Program allows the member to lawfully undertake specified activities.

Providing Australians with a broader range of education options under the proposed policy enables them to choose the best education for their new employment or business opportunities, rather than be influenced by the tax-deductible status of a course. We recommend the proposed policy include, at a minimum, providers who are approved under other regulatory regimes or legislative instruments. Consideration should also be given to including discretion to approve other providers who can demonstrate learning and employment outcomes for their students that are commensurate with registered education and training providers.

For example, Canada defines an "educational institution" to include a university or college and "other educational institutions", which includes professional organisations providing educational courses at a post-secondary school level to their members. Institutions can also apply to the Minister for Employment and Social Development for certification.⁵

3. Should any new deduction be further targeted to study or training that has a vocational outcome, such as VET courses based on industry Training Packages, for example to exclude 'lifestyle and personal development courses'?

The notion of lifestyle or personal development courses presumes that the potential to generate income from such skills is limited and the individual does not intend to generate significant income as a result of the course. We note that individuals in occupations linked to such courses including personal trainers, yoga instructors, florists and jewellery makers can earn an average income or higher, and that it is the intent of the individual rather than the occupation or skill itself that determines the income-earning potential.

We therefore do not agree that lifestyle and personal development courses should be excluded or that individuals choosing such avenues for their career should lose access to the deduction. This is demonstrated by the impact of COVID-19 on many Australians who were forced to change careers as they were made redundant or retrenched. Some of these individuals undertook qualifications or certifications in fields most likely defined as "lifestyle and personal development" and have found new employment or established a business in these occupations. For others, what may previously have been their side interest while they were employees, is currently their main source of income.

4. Should deductions be targeted to courses in areas of expected job growth, for example as determined by the National Skills Commission?

The proposed restriction to courses in targeted areas identified by the Government may reduce the policy's effectiveness by interposing another regulatory framework between the individual and their education choices. This part of the proposal requires that the NSC analysis is timely, prescient and accurate. While the NSC provides valuable intelligence to inform labour market policy⁶, in a market-based economy such as Australia, government agencies may not necessarily be as effective as individuals in determining those individuals' retraining and reskilling needs. The Government also has other policies such as the **National**

² For example, recipients can be required to conform to the **Commonwealth Grants Rules and Guidelines**

³ See **Board approved courses search by Unit name or Unit code**

⁴ See **FASEA Approved Degrees and Equivalent Qualifications and Courses to meet the Education Standard**

⁵ See paragraphs 2.5 and 2.6 of **Income Tax Folio S1-F2-C2, Tuition Tax Credit**, Canada Revenue Agency

⁶ In its most recent report, **The shape of Australia's post COVID-19 workforce** (National Skills Commission, 2020), the NSC highlights the resilience of taxpayer-funded jobs in medicine, nursing and public administration as well as sectors benefiting from COVID-19 generated demand such as information technology. The **2019 occupation projections** show highest growth in Legal, Social and Welfare Professionals, ICT Professionals, Carers and Aides and Health and Welfare Support Workers.

Innovation and Science Agenda which should be considered if it intends to establish a framework for approved courses. As individuals will have their own aptitudes, preferences, aspirations and market knowledge to consider when investing in their education, these choices should not be distorted unnecessarily by the availability of a tax deduction.

Furthermore, there is a time lag between demand for labour and regulatory approval which may limit the effectiveness of this measure. For example, COVID-19 impacts are driving substantial market growth for veterinarians, pet grooming and pet product businesses⁷ to which it is challenging for government to quickly identify and respond.

Further to our response to question 1, linking tax deductibility to defined areas of job growth creates administrative complexity and timing challenges by requiring:

1. the NSC to correctly predict and dictate the job growth areas in real-time
2. regulatory bodies such as TEQSA and AQSA to rapidly define the relevant courses linked to job growth areas
3. providers to rapidly assess their courses' eligibility against the criteria and potentially modify their courses
4. individuals to calculate the value of their tax benefit over multiple income years based on their expected assessable income and enrol while the course is still eligible, and
5. the ATO to annually verify deduction claims against all the required criteria.

Therefore, where the Government seeks to encourage education in certain areas of job growth and limit its expenditures, direct funding may be more efficient. Steps 4 and 5 of the above process could be replaced by the single step of increasing CSPs or grants. Timing is not then as critical as it is not linked to the annual tax return process.

5. Is there any reason to change the types of expenses that are able to be deducted? For example, should any new deduction be limited to tuition fees?

We submit that the proposed policy should be conceptually the same as existing work-related education expense deductions under section 8-1 of the *Income Tax Assessment Act 1997*. This recognises the additional costs associated with education and maintains a consistent approach between those claiming under section 8-1 and those under the proposed policy.

While the paper acknowledges the established clear guidance on deductibility of non-tuition expenses, we note that costs associated with ensuring compliance will be high given that the proposed policy expands the number of potential claimants. The **Individuals not in business income tax gap** is mainly driven by work related expenses, of which self-education is a component, and the ATO invests significant resources into checking compliance.

Alternatively, a separate payment could be made to individuals to compensate them for the additional costs of undertaking education. For example, Canada has limited the non-refundable 15% tuition tax credit to tuition fees only but increased grants for lower and middle-income Canadian students in response to the removal of education and textbook credit⁸.

Again, these challenges raise the question of whether deductions using existing tax constructs are the most appropriate mechanism, and whether better outcomes can be achieved through alternative means.

6. How should the tax deduction interact with government funding, subsidies and loans for higher education and VET courses?

Our view is that the proposed policy should not change the existing point at which tax deductions are allowed when interacting with government funding, subsidies and loans for higher education and VET courses. This means if the deductible expense is funded through CSPs, then the costs incurred would not be tax deductible, while costs would be tax deductible for non-CSP courses such as full fee-paying or VET courses.

7. Irrespective of any new education deduction, should the \$250 reduction in expenses be removed?

We support the removal of the \$250 reduction in expenses, given the \$250 concessional rebate was removed back in 1985 and no policy justification remains.

Administratively this will also improve individual income tax return data by enabling the consolidation of items currently reported across tax return labels **D4** and **D5**.

8. Are there other measures required to minimise opportunities for tax misuse and abuse?

The requirement for and design of any integrity measures will be dependent on the final design of the proposed policy. With individuals there is limited opportunity for significant fraud and the ATO reports that "...the amounts over-claimed and

⁷ Blue Wheelers, **How COVID-19 Increased the Demand for Dog Groomers**, 7 August 2020

⁸ See **Income Tax Folio S1-F2-C2, Tuition Tax Credit**, Canada Revenue Agency

underreported by individual taxpayers [are] small, [but] collectively across a large population the overall revenue impact is significant."⁹

A principles-based and flexible approach will support more Australians and create a workforce with greater skill diversity but is likely to increase taxpayer and ATO compliance costs to ensure the integrity of the claims. Conversely, a highly restricted, data-matched and regulated regime may reduce the accessibility of, and individuals' interest in, the proposed policy but will be more effective at minimising revenue leakage.

The existing penalty regime available to the Commissioner of Taxation will apply to the proposed policy and, as such, it is likely that the ATO will have sufficient powers to address non-compliance.

There is also the potential for providers to inappropriately market or price their courses, or to offer sub-standard courses to individuals primarily seeking to reduce their tax liabilities rather than re-skill. These behaviours are more likely to fall under the remit of the Australian Consumer and Competition Commission and education-related regulatory bodies rather than the ATO. This may create challenges in dealing with such behaviours given that intelligence is held across different agencies and a cross-agency response is likely to be required.

9. Are there observations regarding any other tax issues that are raised throughout the paper?

We note that while there may be a parallel with the fringe benefits tax (FBT) exemption for employers paying for reskilling of redundant/soon-to-be redundant employees where the benefits may not relate to their current employment¹⁰, the proposed policy centres on the individual, and extends beyond incentivising employers to retrain redundant employees. As a result, it is not targeted in the same way as the FBT exemption.

Employer-funded training is arguably a more natural compliance checkpoint, in that employers are less likely to fund inappropriate courses or reduce employees' employment prospects. Furthermore, Professor Ann Brewer notes that research has indicated that reskilling is best achieved when it is employer-sponsored, on-the-job training and "government sponsored training has moderate effects whereas training linked to current or prospective employment has far greater value and is more likely to lead to productivity and better outcomes."¹¹

⁹ ATO, **Trends and latest findings**, Individuals not in business income tax gap, 2020

¹⁰ Budget 2020 - 2021: Budget Measures, **Fringe Benefits Tax — exemption to support retraining and reskilling**, Treasury

¹¹ Andi Yu, Perth Now, **Potential tax incentive for career change**, viewed 12 January 2020, 13 December 2020