

14 March 2023

Select Committee on Cost of Living
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Canberra ACT 2600

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UNSW Tax Clinic – Submission to the Senate Select Committee on the Cost of Living Inquiry

Dear Senate Select Committee,

UNSW Tax and Business Advisory Clinic is grateful for the opportunity to make a submission to the Cost of Living Inquiry.

As part of our commitment to addressing deep systemic injustice within the tax and transfer system and alleviating financial distress, we prioritise engagement with social workers, mental health support workers, financial counsellors and pro bono lawyers. As a result, we bring a unique perspective and focus to the Inquiry Items 'c' (namely, 'ways to ease cost of living pressures through the tax and transfer system') and 'd' (namely, 'measures to ease the cost of living through the provision of Government services').

This submission is guided by a two-prong analysis of UNSW Tax and Business Advisory Clinic's clinical observations of our financially vulnerable clients and our grassroots research.

1 Clinical observations

A snapshot of our client base from April 2019 to March 2023 date is as follows:

- 96% of clients needed professional advice on overdue lodgements and debt discussions
 - On average, 7 years behind on Individual Tax Returns and 5 years behind on BAS
- 73% of clients are microbusinesses
- 63% of clients are Centrelink recipients
- Most clients are experiencing overwhelming levels of financial distress (68% of clients experiencing a 8 or higher on a scale out of 10, with 37% experiencing a 10 out of 10);
- 55% of clients self-report mental health issues;
- 39% of clients self-report experiencing domestic violence.

Microbusinesses in financial distress cannot afford to pay an accountant or tax agent to complete their Individual Tax Returns and BAS Returns. This is particularly problematic because this cohort often also lacks the financial and tax literacy necessary to complete these overdue returns on their own. While the ATO's Tax Help does provide a useful and free service to help people complete their tax returns, small businesses (including microbusinesses and sole traders) are specifically carved out as ineligible if they have an Australian Business Number (ABN).

In these situations, the tax profession should be able to provide pro bono tax advice through the National Tax Clinics Program – similar to the existing framework for community legal centres. However, a key barrier for tax practitioners who wish to engage in pro bono tax advice is that they currently need to intermingle their non-clinic clients with their clinic clients. The profiles of these two groups are understandably very different and, in our experience, agents are apprehensive that their reputation with the ATO may be affected by the poorer compliance records of their tax clinic clients.

We identify two relatively straightforward solutions which could be applied either alternatively or in parallel. First, increasing funding for the National Tax Clinics Program to specifically enable clinics to employ more registered tax agents to provide free tax advice to microbusinesses in financial distress. Second, creating a separate tax agent registration for university-based clinics would remove the need for professional indemnity (PI) insurance to cover pro bono tax agents for any civil claims arising from their pro bono tax advice. The insurance burden would shift to the clinic itself.

2 Grassroots research

We have conducted Australia's first nationwide survey of the financial counselling sector asking whether there is an unmet need for free tax advice amongst people in serious hardship.¹ **This international pioneering² research shows there is, in fact, an overwhelming need for tax referral pathways and assistance, with all surveyed participants indicating they would benefit from such a service and that, on average, 37% of their clients have an unmet need for tax advice.** This is a staggering result given over 200,000 Australians are seen by financial counsellors each year.

Further, most financial counsellors surveyed observed that the unmet need for tax advice has been increasing over time. The key themes emerging from these observations range from issues associated with declining levels of literacy in society, the implications of the 'gig economy' and proliferation of ABNs, low levels of awareness of tax obligations associated with running a small business, the sheer complexity of the tax system, the compliance burden associated with the Goods and Service Tax (GST), and the somewhat punitive nature of the interaction between the tax and transfer system. Specifically, an increasing number of sole traders with little knowledge of tax was cited by survey respondents as a reason for the increasing need for tax advice among people in financial distress. Another pattern that emerged in observations made by financial counsellors was that most clients needed help with lodging multiple years of outstanding tax returns and needed advice with tax debt discussions. Importantly, financial counsellors are not

¹ Kayis-Kumar A, Noone J, Lim Y, Walpole M and Mackenzie G, 'Tax Accounting for Financial Wellbeing: Quantifying the Unmet need for Pro Bono Tax Advice' (2022) 51(3) *Australian Tax Review* 228–257.

² Awarded the Cedric Sandford Medal for Best Paper at the 14th International ATAX Tax Administration Conference.

able to complete or lodge tax returns. This presents a major gap in advice available to those in need.

Accordingly, tax accountants providing tax advice to tax clinic clients can have a profoundly significant impact. Although taxpayers have access to myTax, there is a limitation to how far back they can lodge prior year returns. Feedback from Clinic Clients is that myTax is difficult to use as many of them do not understand the terminology used. Many are not computer literate and have difficulty navigating myTax and the tax return. Further, myTax is only for the lodgement of individual tax returns. Clients whose business are conducted within a company or trust structure are unable to lodge these returns themselves as they need to complete a paper tax return form and try to understand the sections of the tax return. This highlights an untapped opportunity for pro bono assistance and the profoundly significant role of the tax accounting profession.

Furthermore, the majority of respondents indicated that of the people whom they did assist only some (or none) of their clients' tax problems were resolved favourably (around 58%), with less than 3% of clients with tax issues having all of their tax issues resolved. Again, this suggests that there is both an unmet need for pro bono tax advice in order to resolve tax issues more favourably, and that significant gaps exist in access to tax justice in Australia.

If you have any questions about this submission, please contact A/Professor Ann Kayis-Kumar at a.kayis@unsw.edu.au.

Yours faithfully,

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