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UNSW Tax and Business Advisory Clinic – Submission to the National Tax Clinic Program Consultation Paper

Thank you for the opportunity to make a submission to the National Tax Clinic Program Consultation Paper.

Established in 2019, UNSW Tax and Business Advisory Clinic's long-standing commitment to exclusively serving clients in serious financial hardship has been recognised with both international- and national-level accolades.¹ We appreciate the flexibility of the Program which has empowered all existing tax clinics to identify and decide how best to support their respective communities and unique contexts. However, the remainder of this document focuses on assisting those in financial hardship as this is our strength.

Described as "a godsend" by the CEO of Financial Counselling Australia,² our free tax and business advisory services enable the most disadvantaged to navigate a system that is almost impossible to navigate without professional representation. In addition, we aggregate client casework data to conduct innovative grassroots research and catalyse social impact across Australia. This submission is guided by a combination of our clinical observations and research findings.

Question 1: Eligible National Tax Clinic clients

Early in the UNSW clinic's operations a decision was made to focus on individuals and small businesses in financial hardship. This was, in part, based on a national survey conducted by the UNSW clinic. The survey showed that 37% of financial counselling clients (approximately 80,000 people every year) have an unmet need for professional tax advice – primarily in relation to long-term overdue income tax, GST and PAYG returns (91% of clients with unmet tax needs), and tax debt discussions (88% of clients with unmet tax needs).³ Notably, this

¹ Awarded the AACSB International's Innovations That Inspire Award in 2021, and Finalist at the Australian Financial Review (AFR) Higher Education Awards in 2022 and 2023.

² "It has been a godsend to have services such as the UNSW Tax & Business Advisory Clinic as a referral option for financial counsellors with small business clients. The clinic can help clients with preparing records, lodging tax records and negotiating payment arrangements with the ATO": Ann Kayis-Kumar and Michael Walpole, 'Throwing a financial lifeline to struggling microbusinesses' (UNSW BusinessThink, 22 August 2023); available at: <https://www.businessthink.unsw.edu.au/articles/microbusinesses-tax-finance>.

³ "Almost all clients (with a tax concern) seen by the survey participants needed advice on lodging tax returns (93%) and assistance with tax debt discussions (88%). A small proportion needed assistance lodging an objection to an ATO decision (18%), with even fewer needing assistance in litigation against the ATO (7%) or an audit conducted by the ATO (7%)." Ann Kayis-Kumar, Jack Noone, Youngdeok Lim, Michael Walpole and Gordon Mackenzie, 'Tax Accounting for Financial Wellbeing: Quantifying the Unmet need for Pro Bono Tax Advice' (2022) 51(3) *Australian Tax Review* 228-257, 245. Awarded the Cedric Sandford Medal for Best Paper at the 14th International ATAX Tax Administration Conference (2021).

research was conducted before the pandemic, and there may be more people with unmet tax needs given the current economic climate.

The below Financial Iceberg is a useful tool in unpacking the drivers of financial hardship. It recognises that the most prominent surface level triggers exhibiting financial hardship are over indebtedness, late payments of bills, arrears backing up for months, non-response to communications from creditors, relationship breakdown, often leaving women and children homeless and penniless.⁴



Source: Voola, 2019

At the intersection of tax, small businesses and financial hardship, this presents as long-term overdue lodgements of income tax, GST and PAYG returns, resulting in large tax debts. Notably, the Clinic's small business clients have on average over \$90,000 in tax debts. This is consistent with observations from the financial counselling sector.

The most efficient means of identifying and supporting financially vulnerable individuals and small businesses in hardship is by partnering with the community sector (namely, financial counsellors, crisis support, domestic violence support, and pro-bono legal clinics). Since our inception in 2019, we have actively pursued these partnerships, recognising them as the best mechanism to identify and support the most disadvantaged in our community.⁵

A select example of such strategic collaboration is in the clinic's role in establishing a nation-wide referral pathway with the financial counselling sector,⁶ as recommended by previous research.⁷ This has enabled us to effectively reach and assist a diverse range of clients and has also significantly enhanced our capacity to deliver specialised support tailored to the unique needs of our clients. This approach has been the right one for UNSW situated as it is between some of the highest and lowest income post codes in the country and as host to the Centre for Social Impact. Another approach may be appropriate for other clinics.

Through our partnerships, we at UNSW have fostered a collaborative ecosystem that leverages the strengths and resources of each organisation, ensuring that clients receive

⁴ Archana Voola, 'Tracking the Financial Icebergs in Australia' (Power to Persuade blog, 12 August 2019); available at: <https://www.powertopersuade.org.au/blog/tracking-the-financial-icebergs-in-australia/12/8/2019>.

⁵ For example, Ann Kayis-Kumar, Youngdeok Lim, Jack Noone, Michael Walpole, Jan Breckenridge, Leslie Book, 'Identifying and supporting financially vulnerable women experiencing economic abuse: a grounded theory approach' (2023) 21(2) *eJournal of Tax Research* 173-202.

⁶ See Parliament of Australia, Standing Committee on Tax and Revenue, Inquiry into the Commissioner of Taxation Annual Report 2018-19 (26 June 2020).

⁷ Ann Kayis-Kumar, Jack Noone, Youngdeok Lim, Michael Walpole and Gordon Mackenzie, 'Tax Accounting for Financial Wellbeing: Quantifying the Unmet need for Pro Bono Tax Advice' (2022) 51(3) *Australian Tax Review* 228-257.

comprehensive support that addresses both their immediate and long-term needs. Our engagement with these partners is built on a foundation of mutual respect, shared goals and a commitment to community wellbeing, facilitating a coordinated approach to financial hardship that goes beyond individual service provision.

Moreover, these collaborations have been instrumental in extending our research and achieving a state-wide footprint that allows us to make a meaningful difference across a broader spectrum of the community.⁸ By doing so, we not only amplify our impact but also contribute to building a more resilient and supportive community infrastructure. Moving forward we are committed to deepening these partnerships and exploring further collaborations to enhance our services and support for financially vulnerable Australians.

Question 2: Key activities of the National Tax Clinic program

We respectfully submit that the National Tax Clinic program could prioritise serving those in financial hardship, and that this is best achieved with an evidence-based approach.

Activity	Weighting percentage	Explanation for Weighting
Provide advice to clients to better understand the tax system	15%	Advice and Representation go hand-in-glove, and form part of the tax agent service provided by the Clinic.
Represent unrepresented taxpayers and small businesses when they need to interact with the ATO	70%	Representation should include advice and advocacy. The overwhelming unmet need is in relation to tax advice by registered tax agents in completing long-term, overdue lodgements and having tax debt discussions with the ATO.
Undertake educational activities to better inform students, taxpayers, and the broader community on matters of interest and concern	10%	Although the ATO is well positioned – given its scale and existing programs – to undertake educational activities, the clinics can help with this. Currently the focus of this clinic is on identifying and supporting people in financial hardship who are falling through the cracks, and we recognise that community education (which the clinics could do in partnership with the ATO) is part of the picture as it helps people avoid the cracks in the first place.
Advocate on behalf of clients when systemic taxation related issues are identified in their dealings with regulatory or government agencies	See above.	Advocacy should form part of Representation.
Conduct research on tax compliance behaviours of unrepresented / disadvantaged individuals and businesses	5%	The United States experience highlights how clinics have played a significant role in advocacy and law reform. ⁹ At a minimum, it would be practical and meaningful for all clinics to report back on any systemic issues or trends witnessed at the frontline.
Total	100%	N/A

Question 3: Location of tax clinics

To improve access to tax justice, it is imperative that clinics proactively seek and accept referrals from regional, rural and remote community organisations in addition to their local communities.

⁹ A number of US tax clinicians distinguished themselves by advocating and writing on issues that related to vulnerable taxpayers, issues that typically received less attention from academics and practitioners. Keith Fogg, 'Taxation with Representation: The Creation and Development of Low-Income Taxpayer Clinics' (2013) 67(1) *The Tax Lawyer* 3, 32-37.

Clinic research finds that a lack of proximate tax advice and the closing of ATO regional offices has given rise to the increasingly unmet need for tax advice.¹⁰ This presents an opportunity for clinics to serve this unmet need. Universities, such as the University of NSW (and as far as we know Curtin University) are able to reach out to potential clients in regional and rural areas through a combination of in-community outreach, telephone appointments, and online resources. They also have access to Indigenous staff and support personnel who can advise on the best way to engage with Indigenous communities.

Question 4: Tax clinic model

We are grateful for the support of the ATO in empowering the National Tax Clinic pilot to explore the best way to identify and serve the unmet need of individuals and small business in financial hardship. As a result, and given our grassroots research findings, there is compelling evidence of an overwhelming need for a large-scale rollout of the Tax Practitioner Model.

Question 5.1: Factors to be considered when assessing applications

Below are our ratings (with 1 being not at all important to 5 being extremely important) for each factor identified in the Consultation Paper.

Factor	Rating
Presence of multiple tax clinics in the same geographical area	3
Geographical coverage of tax clinics across Australia	3
Amount of time a proposed tax clinic will be operational and available to clients	5
Number of students who will gain experience working in a tax clinic	3
Number of student hours a proposed tax clinic will fulfil	3
Existence of an established tax clinic, including past output	4
Type of activities a proposed tax clinic will undertake	5
Volume of activities forecasted that a tax clinic will undertake	5
Type of professional supervision for the proposed tax clinic	5
Ability to provide outreach services to rural and remote communities	4
Accessibility to vulnerable groups	5
QS World University Rankings	2
The requested grant funds to operate a tax clinic	2
Joint applications across various academic institutions	1

Question 5.2: Factors to be considered when assessing applications

The above factors are very comprehensive. The only other factor we would suggest and encourage that the ATO consider is in-kind contributions from the applicant's institution, where possible.

Question 6.1: Measuring success

Below are our ratings (with 1 being not at all important to 5 being extremely important) for each factor identified in the Consultation Paper.

Please note: We have taken the liberty of amending the first line (amendment in ***bold italics***) because there are millions of taxpayers who probably do not need free tax advice – what is critically important is that the National Tax Clinic program serves the most in need; namely, individuals and small business in financial hardship. This focus on the 'tax advice gap'¹¹ avoids cannibalising the tax profession's client base; complements the ATO's compliance and payment activities; and, avoids unnecessary duplication of the ATO's Tax Help service.

¹⁰ Ann Kayis-Kumar, Jack Noone, Youngdeok Lim, Michael Walpole and Gordon Mackenzie, 'Tax Accounting for Financial Wellbeing: Quantifying the Unmet need for Pro Bono Tax Advice' (2022) 51(3) *Australian Tax Review* 228-257, 244.

¹¹ AccountantsDaily, 'The tax advice gap for the most financially vulnerable' (19 June 2020; available at: <https://www.accountantsdaily.com.au/tax-compliance/14514-the-tax-advice-gap-for-the-most-financially-vulnerable>); see also, Ann Kayis-Kumar, 'Is there a tax advice gap in Australia?', presented at the UNSW Social Policy Research Centre Seminar Series (13 October 2020).

Information	Rating
Number of clients <i>in financial hardship</i> supported by the tax clinics	5
Client entity type, (that is, individual, small business)	5
Eligibility indicators of clients supported by the tax clinics (that is, financial hardship, non-English speaking background, homelessness)	5
Type of support being provided to tax clinic clients (that is, lodgment support, registration support, objections, tax debts)	5
Referral source (how did the client find the tax clinic)	5
Geographic location of clients supported by tax clinics	4
Time spent supporting clients of the tax clinics	5
Systemic taxation related issues and opportunities identified by tax clinics	4
Number of students participating in tax clinics	3
Time commitment from students	5
Time commitment from clinic supervisors	4
Number of community education events undertaken by tax clinics	3
Time spent conducting research	2
Research outcomes (where known)	5
Case studies highlighting the challenges faced by tax clinic clients	5

Question 6.2: Measuring success

Measurement and evaluation of outcomes can also be achieved with the use of logic models and theory of change.¹² This is already utilised in the evaluation of investments by government departments and programs and even some community legal centres.

Question 7: General comments

We are grateful for the ATO's efficient, effective, and constructive administration of this program. As we look to the future, the UNSW Tax and Business Advisory Clinic is committed to maintaining and further expanding our positive impact on individuals and small businesses facing financial hardship. Our goals are rooted in the continuous improvement of our services, further research into the systemic issues affecting our clients, and enhancing our outreach education and advisory services.

This is in line with the UNSW's commitment to the UN Sustainable Development Goals (SDGs), especially SDG 10 (Reduced Inequalities). We are confident that with the stewardship and support of the ATO, the National Tax Clinic Program is well-positioned to contribute to the following targets:

- Target 1: Reduce income inequalities;
- Target 2: Promote universal social, economic and political inclusion;
- Target 3: Ensure equal opportunities and end discrimination;
- Target 4: Adopt fiscal and social policies that promote equality.

¹² See, for example, the Tax Clinics Program Logic, co-authored (in alphabetical order) by Donovan Castelyn, Michelle Cull, Brett Freudenberg, Sunita Jogarajan, Ann Kayis-Kumar, Van Le, Gordon Mackenzie, Annette Morgan, Jack Noone, Connie Vitale, Sonali Walpole, Michael Walpole and Rob Whait; Kayis-Kumar, Ann & Noone, Jack, (2019), Measuring the Social Impact of University-Based Pro Bono Tax Clinics: Co-Creating a Framework for Evidence-Based Evaluation, Austaxpolicy: Tax and Transfer Policy Blog, 3 October 2019, Available from: <https://www.austaxpolicy.com/measuring-the-social-impact-of-university-based-pro-bono-tax-clinics-co-creating-a-framework-for-evidence-based-evaluation>. See further: Ann Kayis-Kumar, Jack Noone, Fiona Martin and Michael Walpole, 'Pro Bono Tax Clinics: An international comparison and framework for evidence-based evaluation' (2020) 49(2) *Australian Tax Review* 110–132.

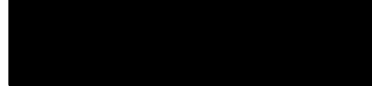
If you have any questions about this submission, please contact A/Professor Ann Kayis-Kumar at a.kayis@unsw.edu.au.

Yours faithfully,

UNSW Tax and Business Advisory Clinic



A/Professor Ann Kayis-Kumar
Founding Director



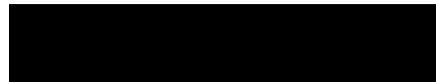
Professor Paul Andon
Head of School



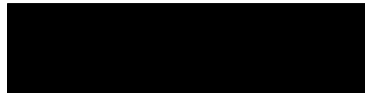
Professor Michael Walpole
Co-Founder



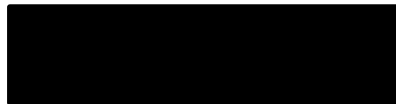
Professor Kevin O'Rourke OAM
Adjunct Professor



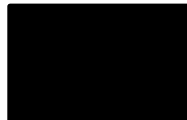
Professor Jennie Granger
Professor of Practice



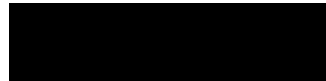
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