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The Treasury's Consultation Paper on 'Combatting financial abuse perpetrated through coerced directorships' – Submission of UNSW Tax and Business Advisory Clinic

Thank you for the opportunity to make a submission in relation to The Treasury's Consultation Paper.

Background

Drawing on our tax expertise, our submission is focused on the weaponisation of the Australian tax system to financial abuse victim-survivors. Our submission is guided by a combination of our clinical observations and research findings. Critically:

1. the majority of coerced tax debts put in the name of our clients (who are victim-survivors of intimate partner financial abuse) arise from company structures (approximately 51%), followed by sole traders (24%), partnerships (24%) and trusts (1%); and
2. *any* business entity can be weaponised by perpetrators of financial abuse to create tax debts. The consequences can be severe, and our clients' coerced tax debts are on average \$68,000, though our clients have received DPNs ranging from \$5,000 to \$600,000. This is debilitating given our clients are living in poverty and often at risk of bankruptcy and homelessness.

Endorsements

We support the recommendations outlined in the Economic Abuse Reference Group's submission which is particularly significant given their deep expertise in identifying and supporting victim-survivors of domestic violence and coercive control. In addition, we also support the submission of the Law Council of Australia given its invaluable insights from the perspective of tax practitioners. Both of these peak bodies offer a depth of cross-sector expertise invaluable to this public consultation.

Recommendations

Our key recommendations are five-fold, as follows:

1. Issue a follow-up Consultation Paper dealing with other entity types to prevent perpetrators from shifting away from companies towards other entity types.
2. Enact a new legislative provision, inspired by US innocent spouse relief, to waive the tax debts of victim-survivors and to penalise the perpetrators.
3. Establish a dedicated ATO phone line for coerced directorships and victim-survivors that is staffed by fully trained trauma-informed personnel.
4. In relation to DPNs specifically:

- (a) Be flexible with the evidence requirements for a DPN defence for victim-survivors.
- (b) Legislate to extend the lodgement period of DPN defence submissions of victim-survivors.

5. Provide further education including:

- (a) To the public, in respect of the tax secrecy provisions, so that victim-survivors feel comfortable to explain their circumstances to the ATO.
- (b) To tax agents, tax and corporate lawyers regarding financial abuse and coercive control. This is likely to result in better detection of financial abuse and less coerced directorships.

We look forward to working with Treasury to achieve the best outcomes for Australian families.

Responses to the Consultation Questions

Consultation Question 12. How can the ATO assist a coerced director to engage with them as soon as possible and bring their circumstances to the Commissioner's awareness?

Design engagement with the ATO to be accessible, trauma-informed and supportive of people experiencing vulnerability. This can be achieved by:

1. Establishing a dedicated toll-free phone line for coerced directors and victim-survivors. This phone line should be staffed by a team that is fully trained in:
 - (a) the challenges experienced by victim-survivors;
 - (b) trauma-sensitivity;
 - (c) the ATO's Vulnerability Framework; and
 - (d) how they can assist taxpayers experiencing financial abuse.It is important that this dedicated phone line is properly advertised in a manner that makes victim-survivors feel safe to come forward.
2. Educating the public regarding the tax secrecy provisions so that victim-survivors are aware that information provided to the ATO cannot be shared with the perpetrator.
3. Adopting a vulnerability-aware risk profiling framework that proactively identifies coerced directors and facilitates early engagement before enforcement escalates. High-risk cases could be identified based on objective indicators including:
 - (a) tax debts greater than \$50,000;
 - (b) outstanding lodgements exceeding five years or many lodgements in quick succession;
 - (c) frequent director changes or deregistration attempts.

As the ATO generally interpret prolonged non-lodgement and significant accumulated debt as compliance failures rather than signs of financial abuse, this model must be used for protective engagement only and not enforcement. Recognising these patterns as vulnerability markers is essential to ensuring a trauma-informed approach.

Once a case is flagged, the ATO should implement safe contact protocols to protect victim-survivors from retaliation and interception of correspondence. This should include:

- (a) secure communication channels (including encrypted messaging);
- (b) the ability to nominate a trusted third-party representative (in addition to a registered tax agent) for correspondence; and
- (c) suppression of standard notices to avoid triggering further harm.

To operationalise this framework, legislative amendments should permit controlled data sharing between ATO and ASIC for vulnerability detection under strict privacy safeguards.

The implementation of our above recommendations will overcome many of the challenges that victim-survivors face when engaging with the ATO. For example, when the victim-survivor first contacts the

ATO, this conversation usually occurs with a less experienced ATO officer and several consequences flow from this including:

1. The ATO officer may not be fully trained or equipped to deal with the trauma experienced by the victim-survivor.
2. It may therefore be difficult for the victim-survivor to meaningfully express their circumstances.
3. The issues are very complex from a tax law perspective, and the ATO officer may not be fully aware of these complexities.
4. As a result, misunderstandings often arise. For example, it is not uncommon for a victim-survivor to be told by an ATO officer that since she (most typically) was a director, she was simply responsible for the company debt and must take immediate steps to pay it.

Consultation Question 13. How can additional time be provided to coerced directors to obtain advice and determine the appropriate actions to take for their circumstances, while also upholding the DPN regime's intended purpose to recover employee entitlements from non-compliant directors in a timely manner?

DPNs require payment of the full amount of the tax debt within 21 days of posting the DPN to avoid personal liability. DPNs are often sent to incorrect addresses, particularly in the case of victim-survivors of financial abuse whose residential address is likely to be subject to change at short notice (or is under the control of their abuser). This issue could be mitigated by creating a statutory mechanism that allows coerced directors and victim-survivors of financial abuse to apply for an extension of time (eg up to an additional 21 days from the date of receipt of the DPN) upon providing evidence to the satisfaction of the Commissioner of Taxation of coercion or financial abuse.

We have recommended an additional 21 days to ensure adequate time for receipt of the DPN and preparation of a comprehensive defence. Based on our previous experience, the preparation process typically spans around six weeks. This timeframe reflects the complexity involved in gathering detailed information and supporting evidence. Collecting supporting material can be particularly challenging as it often involves coordinating multiple parties and considering sensitive information. Allowing an additional 21 days will provide sufficient time to complete these steps ensuring that the defence is robust, well-supported and reflective of the victim-survivor's situation which ultimately increases the likelihood of a successful outcome.

Consultation Question 14. What are the benefits and risks of extending timeframes for coerced directors to take steps to have a DPN remitted or submit a defence?

The main benefits are as follows:

1. More comprehensive defence submissions as directors have more time to understand their position, seek legal and financial advice and gather the evidence required to support their defence. Often perpetrators control bank accounts, financial correspondence and even correspondence from the ATO. This may continue even after the victim-survivor separates themselves from the perpetrator.
2. Improved compliance and engagement with the ATO. It is important to keep in mind that victim-survivors of financial abuse have been prevented from engaging with the ATO by their former spouse. When they see the ATO as fair and reasonable, they are more likely to comply with future tax obligations and seek help early if problems arise.

3. More efficient allocation of ATO resources. Giving victim-survivors more time to prepare a defence will ensure that ATO resources are focused on cases where enforcement action is appropriate, rather than being wasted on pursuing debts from vulnerable taxpayers who are unlikely to be liable under the legislation.
4. Mitigation of the mental health impacts of receiving DPNs. The stress and anxiety associated with the short window of time to lodge a defence can be significant, particularly for victim-survivors who are already under other pressures. For example, many victim-survivors rejoin the workforce following escaping from their former partners and may be parties to family court proceedings (including child custody issues).

The main risks are as follows:

1. Undermining the deterrent effect of the DPN regime. The 21 day timeframe is designed to prompt swift action and responsible behaviour. Providing an extension to a small and clearly defined cohort of directors should not reduce the effectiveness of the regime, as it would be the exception, not the rule.
2. Increased administrative burden on the ATO. A new extension process is likely to result in a higher volume of correspondence being provided to the ATO, particularly in the form of requests for extension (and accompanying evidence). To diminish this, the ATO could implement a standardised application form and clear procedural guidelines, ensuring that only fully completed requests accompanied by all necessary evidence are considered. Leveraging Artificial Intelligence and digital automation could further streamline the triage and assessment of extension applications, enabling the efficient identification of incomplete or ineligible requests, reducing manual processing time. With these measures in place, the additional time required to assess each extension request should be minimal, allowing the ATO to manage the increased workload effectively and maintain focus on core compliance activities.
3. The potential for inconsistent outcomes. Extensions on a case by case basis may result in an inconsistent application of the law and some extensions may be granted on the basis of less evidence than others. This risk can be overcome by:
 - (a) Developing and publishing clear guidelines outlining the criteria, process and evidentiary requirements for granting extensions, ensuring consistency in decision-making.
 - (b) Providing regular training for ATO staff involved in assessing extension requests to ensure uniform application.

Consultation Question 15. Are there any unintended consequences associated with introducing a new defence to explicitly include experience of coercive control?

At present, one of the available defences to a DPN contained within section 269-35 of schedule 1 to the *Taxation Administration Act 1953* (Cth) is “...because of illness or for some other good reason...”. However, there is no legislative clarity, precedent or policy guidance on whether financial abuse meets the “good reason” defence.

There is a burning platform for legislative clarity, because even though financial abuse is mentioned in the ATO’s Vulnerability Framework, this would guarantee that victim-survivors could draft a defence submission without having to engage in a debate with the ATO about whether financial abuse is a ‘good reason’. This is a critically important mechanism to give effect to Government policy.

Unintended consequences associated with introducing a new defence to explicitly include experience of coercive control include:

1. Fewer victim-survivors utilising defences. Introducing a separate defence based on coercive control may inadvertently discourage victim-survivors from availing themselves of the protection that it is intended to provide. To establish such a defence, victim-survivors would likely be required to

disclose highly sensitive, personal and traumatic details of their experience of abuse, coercion and control. This process can be retraumatising particularly if it involves recounting events in detail to ATO officers, legal representatives or tax agents. The fear of not being believed, concerns about privacy and the potential for future emotional distress may deter some individuals from pursuing a defence. This consequence can be counteracted by:

- (a) Training ATO staff in trauma-informed practices to ensure safe and supportive environments are provided to victim-survivors.
- (b) Flexible evidence requirements.
- (c) Educate the public regarding the tax secrecy provisions so that victim-survivors are aware that information provided to the ATO as part of a good reasons defence (or more generally) cannot be shared with the perpetrator.

2. Potential for inconsistent or subjective decision-making. Introducing a defence based on coercive control requires decision-makers to assess complex personal circumstances. Without clear objective guidelines, interpretations of what constitutes “coercive control” may vary significantly between ATO officers. This can lead to outcomes where similar circumstances are treated differently depending upon the assessor’s understanding or experience. Inconsistent decisions undermine confidence in the Australian tax system (and the ATO) and may discourage victim-survivors from relying on the defence.

3. The introduction of a new defence will generate additional demand for assistance from tax clinics, community legal centres and pro bono lawyers (to help victim-survivors understand eligibility and to prepare defence submissions), domestic violence support services (to provide evidence or statements and assist with trauma-informed support). Community legal centres may also be called upon to advise on any implications of the defence for family law or criminal law proceedings. These services are already operating under resource constraints and increased demand could lead to longer wait times, reduced accessibility and staff burnout. Victim-survivors may face delays in obtaining the help they need which could impact their ability to use the defence effectively. This consequence could be reduced by providing additional funding and capacity-building measures to ensure that services are able to meet the increased need.

Consultation Question 16. Where director penalties also relate to a period before the victim-survivor experienced coercive control, should the victim-survivor be relieved of liability for the whole period or only for the period they experienced coercion?

Financial abuse is an insidious form of domestic and family violence that commonly occurs alongside other forms violence and abuse including physical, sexual, psychological and emotional abuse. Victim-survivors of financial abuse may not even be aware that the abuse is occurring and, if they are aware, may be less likely to seek support due to the misconception that financial abuse is less serious than other forms of abuse.

It is for these reasons that our position is that victim-survivor be relieved of liability for the whole period given the complexity in pinpointing exactly when the pattern of coercive control began, which will likely be a time and resource-intensive exercise to arrive at the same point that there is a significant coerced tax debt which itself grew over time.

This is in line with the approach to domestic violence adopted by federal prosecutors in the United States, with the [US Department of Justice's 2024 Sexual Assault & Domestic Violence Guide for Prosecutors](#) containing very helpful discussion of how difficult it is for prosecutors (or victim-survivors) to understand (or from the victim-survivors perspective, explain) when coercion begins.

Coercive control is best understood as a pattern of behaviour, not a discrete event with a clear start date. In many relationships, the conduct that ultimately develops into coercive control begins more subtly:

restrictions on access to bank account, discouraging involvement in business decisions, removing visibility over financial records or implicitly discouraging questions about company affairs. These behaviours often precede any overt intimidation or threats and may not be recognised by the victim-survivor (or an external observer) as coercive until much later.

This reality creates a structural mismatch with the current DPN framework. The good reasons defence requires a director to establish that they did not participate in the management of the company for the entire period of non-compliance. If victim-survivors can only be relieved of liability from the moment they can demonstrate overt coercion, the effect will be fundamentally unfair. This approach would penalise individuals for not recognising coercive control earlier.

Limiting relief only to the period of formally recognised coercion also disregards the practical conditions under which many victim-survivors are appointed as directors. Some may have been fraudulently made a director without their knowledge and others may have been coerced into becoming a director without ever receiving access to company records. Other directors may have been gradually excluded from involvement with coercion manifesting not through explicit threats but through isolation, controlling behaviour and financial dependency. In these scenarios, the victim-survivor lacked real and effective control long before the coercive control is formally identifiable.

A fair and contemporary approach requires acknowledging that functional loss of control can predate recognised coercion and that it is this functional loss of control (not the recognition of the abuse) that is relevant to DPN defences. Legislation that permits victim-survivors to be relieved for the entire period during which they were in substance unable to manage the company (or influence the company's tax compliance) should be enacted even if this relates to periods during which the victim-survivor could not yet articulate the coercion.

Such an approach aligns the DPN regime with modern understandings of financial abuse and coercive control and ensures that director liability reflects actual capacity rather than formal status or retrospective interpretation.

Consultation Question 17. What are the benefits and risks of expanding the existing defence or introducing a new standalone defence for coercive control?

We are supportive of either approach; that is, expanding the existing defence or introducing a new standalone defence for coercive control. We recommend the former, which could take the form of adding the following wording to section 269-35 of schedule 1 to the *Taxation Administration Act 1953* (Cth) (proposed amendment in bold):

*“...because of illness, **coercive control**, or for some other good reason...”*

The main benefits are:

1. Introducing or expanding a defence based on coercive control can help deter perpetrators from coercing victim-survivors into becoming directors by removing the strategic advantage of shifting liability onto them. Perpetrators often use coercion to compel partners to engage in unlawful conduct, both to avoid detection themselves and to deepen the victim-survivor's dependence. A coercive-control defence reduces the effectiveness of this tactic by providing victim-survivors with a clear legal mechanism to explain the coercion, avoid liability and expose the perpetrator's role.
2. This reform could significantly reduce the number of directors who become personally liable for company tax debts in situations where they were never genuinely managing or controlling the business. By recognising coercive control, the law can more accurately distinguish between intentional non-compliance and circumstances where a person was fraudulently made a director or coerced into becoming a director. This helps ensure that DPNs are targeted at true decision-makers.

Ultimately it promotes fairness, strengthens the integrity of the DPN regime and prevents further harm to victim-survivors.

3. Allowing the experiences and circumstances of victim-survivors to be meaningfully considered in their defence ensures the legal system recognises the reality of coercive control. Individuals under sustained intimidation often act under duress, yet current frameworks may overlook the context of their actions. By giving victims a stronger voice, courts can assess behaviour within the full scope of abuse, rather than in isolation, leading to fairer outcomes. This approach validates victim-survivors' experiences, encourages reporting and challenges systemic biases that punish those being victimised. Recognising coercive control in defence not only strengthens justice for individuals but also signals a strong commitment to addressing abuse and promoting accountability.

The main risks are consistent with risks #2 and #3 set out in our response to Consultation Question 14.

Consultation Question 19. Would the introduction of new criminal and civil penalties for perpetrators involved in coerced directorships operate as an effective deterrent and punishment to perpetrators?

The introduction of new criminal and civil penalties for perpetrators involved in coerced directorships could serve as an effective deterrent and punishment.

To achieve meaningful deterrence and accountability, any new penalties must be clearly publicised, proportionate to the seriousness of the offence and underpinned by robust and visible enforcement. Absent these supporting measures, the mere existence of penalties is unlikely to significantly reduce the incidence of coerced directorships or hold perpetrators accountable.

Consultation Question 20. How and when do intermediaries and professionals enable or facilitate the weaponisation of company directorships? Should penalties apply to intermediaries and professionals in these circumstances?

Unfortunately, our clients often observe that the perpetrator and the accountant were friends and acted in concert throughout the course of the engagement. The UNSW clinic team and our research collaborators are currently exploring recommendations for suitable consequences and penalties that ought to apply to intermediaries and professionals in these circumstances. While we are still in early stages of this research, the United States approach of requiring advisors to identify circumstances that might create a conflict of interest may be an effective starting point. A best practice is having both spouses get independent advice at the point of separation.

While in the United States there is no direct penalty nor an affirmative responsibility to determine or inquire relating to abuse or coercive control in the context of preparing a joint return, the United States does have a series of tax penalties on agents who assist in understating a taxpayer's liability due to reckless conduct or taking unreasonable positions. There are also other penalties on agents (for failing to sign a return, give a taxpayer a copy, for disclosing taxpayer information). In addition, there are ethical rules applicable to Certified Public Accountants as well as to attorneys and other tax practitioners who represent clients before the IRS or in the United States Tax Court. The possible consequences of violation are: a private or public sanction by the applicable professional regulatory body, the IRS, or the Court, up to the ultimate penalty of being barred from practice.

As such, introducing penalties specifically aimed at reckless facilitation would meaningfully shift practice. It could establish a clear expectation that professionals must confirm a proposed director's identity and consent, obtain their direct instructions and ensure they understand the legal and tax consequences of being appointed as a director.

A proportionate, tiered model is appropriate. The following framework is proposed for consideration:

1. Education – ensures every professional can recognise coercion and financial abuse.
2. Civil Penalties – targets reckless disregard for obvious red flags.
3. Criminal Penalties – reserved for those professionals that knowingly facilitate abuse or fraudulent director appointments.

Consultation Question 22. Are there other opportunities to ensure perpetrators are held to account and face appropriate consequences for the harms they create?

The most effective way to decisively counter the abuse of business structures and systems as tactics of coercive control would be to grant relief for tax debts on grounds of intimate partner financial abuse – this has been in place in the United States in the form of ‘innocent spouse relief’ provisions since 1998. The US laws also give the IRS the discretion to offer relief from tax debts on grounds of financial hardship or public policy, as well as other targeted initiatives relevant to earlier stages of tax debt collection.

Our law reform proposal has been adopted as Recommendation 54 of the Final Report of the Parliamentary Joint Committee on Corporations and Financial Services ‘Inquiry into financial services regulatory framework in relation to financial abuse’:

“That the Australian Government develop a tax relief model for victim-survivors of financial abuse similar to the United States IRS ‘innocent spouse relief’ provisions.”

The ATO also endorsed this proposed approach in its Answers to Questions on Notice from Senator Deborah O’Neill, stating: *“The ATO agrees with the principles outlined in the referenced UNSW paper.”*

Accordingly, we recommend that a new provision be enacted, inspired by the US innocent spouse relief provisions, as outlined below.

Element 1: ‘Prevent perpetrators from using the tax and corporate systems to create debts as a form of coercive control’

As a ‘second-mover’, Australia’s adoption of innocent partner relief provisions will benefit from transferrable lessons from the US experience, help mitigate intimate partner financial abuse significantly across Australia, and offer a best practice model for adoption by other jurisdictions. This more equitable approach recognises that victim-survivors with tax debts resulting from intimate partner financial abuse should not bear financial responsibility.

Element 2: ‘Make perpetrators accountable for these debts if they do’

The second element of Bullet Point 1 of the ALP’s election commitment presents a strong deterrent to perpetrators of intimate partner financial abuse and creates a disincentive for perpetrators’ weaponisation of the tax system. Legislation will not be required in situations where the debt is in the name of the perpetrator. However, where this is not the case, or where the perpetrator is a ‘shadow’ director or business associate, then legislation will be needed to transfer the tax-related liability to the perpetrator. Incidentally, the best example of transferring liability between entities in the taxation laws is the DPN regime in TAA, Schedule 1, Division 269. We recommend Treasury look to this regime as the model for transferring liability from a victim-survivor to a perpetrator, while also imposing a ‘penalty’ on the perpetrator. While a fully drafted provision would likely span many pages, the critical part is the initial subsections.

We recommend these elements be drafted as follows:

Application for waiver of tax-related liabilities arising from intimate partner financial abuse

- (1) A taxpayer may apply to the Commissioner to waive a tax related-liability (including any associated general interest charge, shortfall interest charge and penalties) if:
 - (a) The taxpayer was in a relationship with an intimate partner; and
 - (b) The taxpayer suffered abuse at any time during the course of the intimate partner relationship; and
 - (c) The tax-related liability arose in an entity with which the taxpayer and the intimate partner were associates; and

(d) The tax-related liability is sufficiently connected to the abuse due to the presence of any of the following circumstances:

- (i) The taxpayer became an associate of the entity without giving informed consent; or
- (ii) The taxpayer has signed documents connected to the entity as a result of coercion, duress, fraud or undue influence by the intimate partner; or
- (iii) The taxpayer has not actively participated in the conduct of any enterprise carried on by the entity as a result of coercion, duress, fraud or undue influence by the intimate partner.

(2) An application under subsection (1) must be supported by evidence that, in the Commissioner's opinion, is reasonably sufficient to establish that the requirements of subsection (1) are met.

(3) Without limiting subsection (2), supporting evidence may include:

- (a) a police report;
- (b) an Apprehended Domestic Violence Order or Apprehended Violence Order;
- (c) court documents, including affidavits, sentencing remarks and judgments;
- (d) a report or signed letter from a psychologist, psychiatrist, general practitioner, registered counsellor or hospital;
- (e) a letter from a financial counsellor, community legal centre or social worker;
- (f) a victim statement or statutory declaration;
- (g) documentation demonstrating receipt of a payment or vouchers under a program supported by the Commonwealth that provides assistance to individuals escaping family violence;
- (h) documentation evidencing the taxpayer's exclusion from managing their tax affairs.

(4) The absence of evidence listed in subsection (3) does not, of itself, justify refusal of an application, provided the Commissioner is otherwise satisfied that subsection (2) is met.

(5) The Commissioner must ensure that all supporting evidence provided under subsection (3) is used solely for the purpose of considering the application under subsection (1), unless otherwise required by law or with the taxpayer's consent.

(6) An application may be made at any time, including after proceedings to recover the tax-related liability have commenced, provided that the taxpayer meets the requirement set out in subsection (2).

(7) The Commissioner may grant a partial waiver of the tax-related liability where a full waiver is not appropriate.

(8) The Commissioner must notify the taxpayer in writing of the decision in respect of the application and provide reasons for any decision to refuse a waiver of the tax-related liability.

(9) The taxpayer may object to the Commissioner's decision not to waive the tax-related liability in accordance with Part IVC of the *Taxation Administration Act 1953* (Cth), as if the decision were an objection decision for the purposes of that Part.

Note: A taxpayer who objects to a decision under subsection (9) may have the objection decision reviewed by the Administrative Review Tribunal or appealed to the Federal Court in accordance with Part IVC of the *Taxation Administration Act 1953* (Cth).

(10) Whilst an application under subsection (1) is being considered:

- (a) the Commissioner must not take any steps to collect the tax-related liability; and
- (b) no general interest charge, shortfall interest charge or penalties may accrue in relation to the tax-related liability.

(11) In this section:

- 'Abuse' includes domestic violence, coercive control or financial abuse.
- 'Associate' has the same meaning as in section 318 of the *Income Tax Assessment Act 1936*.
- 'Intimate partner' has the same meaning as in subsection 10(1) of the *Family Violence Act 2016* (ACT).
- 'Entity', 'Enterprise' and 'Carrying on' have the same meanings as in the *A New Tax System (Goods and Services Tax) Act 1999*.

Transfer of the tax-related liability arising from intimate partner financial abuse

(12) Where the circumstances set out in paragraphs (1)(a) to (d) are satisfied, the intimate partner is liable to a penalty equal to the amount of the tax-related liability.

(13) The penalty is due and payable on the same day as the tax-related liability was or is due and payable.

Consultation Question 23. To what extent does the existing definition of coercive control in the Telecommunications Industry Standard appropriately capture the scope of harms and different cohorts of victim-survivors and perpetrators?

The existing definition of coercive control in the Telecommunications Industry Standard: “*Coercive control means a repeated pattern of behaviour that has the effect of creating and maintaining control over another individual by exerting power and dominance in everyday life to deny freedom and autonomy through fear, control, pressure or manipulation*” appropriately captures the overarching intent of coercive control. However, its application to financial abuse, particularly in the context of tax debts requires further nuance to ensure the full spectrum of harms and diverse experiences of victim-survivors are addressed.

Critically, the use of coercive control to create tax debts must recognise the broad spectrum of methods utilised by perpetrators, ranging from: (1) coercing debt through fraud (when debt is fraudulently created in the victim-survivor’s name without their knowledge); (2) coercing debt through force (when the victim-survivor is coerced into creating debt without their consent, through threats or violence); and (3) coercing debt through misinformation (when the victim-survivor is provided with insufficient details, and therefore does not understand the true nature or extent of the debt).

Consultation Question 24. What are the appropriate types of evidence that would demonstrate the occurrence of coercive control?

Victim-survivors should substantiate their defence with independent and contemporaneous evidence.

Examples of such evidence include but are not limited to:

1. Police reports.
2. Apprehended Domestic Violence Orders, intervention orders or restraining orders (as known in each state or territory).
3. Court documents, including affidavits, sentencing remarks, and judgments.
4. Reports or signed letters from psychologists, psychiatrists, general practitioners, registered counsellors, or hospitals.
5. Letters from support professionals such as financial counsellors, community legal centres or Legal Aid lawyers, social workers or community organisations (including but not limited to family violence frontline workers and faith-based or community leaders).
6. Victim statements (including self-disclosures) or statutory declarations.
7. Documentation demonstrating receipt of a payment or vouchers from Government supported programs for Victim-Survivors, such as the Leaving Violence Program, Crisis Payment, or a statutory victims’ compensation scheme. Receipt of such a payment indicates that the administrator of the relevant government scheme has already obtained and assessed evidence of Domestic Violence or Coercive Control.
8. Evidence from federal or state government departments regarding their decision making in response to a victim-survivor’s experience of DFV.
9. Evidence that a school (for example, attended by the victim-survivor’s child/ren) is aware of DFV.
10. Documentation evidencing the victim-survivor’s exclusion from managing the company or their tax affairs. For example, absence of signed consents or agreements to act as a company director, absence of direct correspondence or meetings with the tax agent, evidence of forged or coerced signatures, no access to the company’s bank account, or an email address not controlled by them was previously used for ATO correspondence.

Consultation Question 25. What difficulties may a victim-survivor encounter in providing evidence of experience of coercive control? What types of evidence may a victim-survivor have access to?

One issue that we have experienced in our work with victim-survivors of financial abuse is that they are often still in the process of rebuilding their lives following their escape from domestic violence when they receive a DPN. Victim-survivors often do not have access to financial and tax records, usually by design of the perpetrator.

It is critical that victim-survivors of financial abuse not be disadvantaged because they do not have police reports or apprehended domestic violence orders supporting their defence.

There are three main difficulties:

1. Absence of witnesses – Victim-survivors of coercive control often struggle to provide evidence because the abuse occurs in private. Coercive control typically occurs behind closed doors, with the perpetrator intentionally isolating the victim from friends, family, colleagues and community networks. This isolation is achieved through various means, such as restricting access to communication devices, monitoring social interactions and creating an environment of fear and mistrust. As a result, the victim-survivor is left without a support system and with very limited opportunities to disclose their circumstances or seek help. The absence of witnesses not only removes potential corroborators who could validate the victim-survivor's account but also increases the victim-survivor's sense of helplessness and dependence on the perpetrator. This dynamic makes it extremely difficult for victim-survivors to gather evidence or find witnesses to corroborate the abuse.
2. Limited ability to safely record or retain evidence – Coercive control often involves close monitoring of the victim-survivor's communications, movements and finances. Phones, emails and social media may be searched or controlled, the victim-survivor's time scrutinised and attempts to document coercive control may provoke retaliation. Further prolonged trauma can affect confidence and many victim-survivors are worried that they will not be believed.
3. Perpetrators manipulate narratives – Perpetrators often present themselves as calm, reasonable or even victimised while depicting the victim-survivor as unstable or aggressive. Character assassination can shape how friends, family and police and other authorities perceive the situation. Some perpetrators conceal or destroy evidence and engineer situations that cast doubt on the victim-survivor's credibility. This strategic manipulation undermines the victim-survivor's ability to be believed and contributes to the broader challenge of evidencing coercive control.

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

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