



CHARTERED SECRETARIES
AUSTRALIA

Leaders in governance

12 July 2013

The Manager
Individuals Tax Unit
Personal and Retirement Income Division
The Treasury
Langton Crescent
Parkes ACT 2600

By email: selfeducationtaxreform@treasury.gov.au

Dear Treasury

***Reforms to self-education expense deductions:
Discussion paper***

Chartered Secretaries Australia (CSA) is the peak body for over 7,000 governance and risk professionals in Australia. It is the leading independent authority on best practice in board and organisational governance and risk management. Our accredited and internationally recognised education and training offerings are focused on giving governance and risk practitioners the skills they need to improve their organisations' performance.

Our Members have primary responsibility to develop and implement governance frameworks in public listed and unlisted and private companies, and not-for-profit and public sector organisations. CSA itself is a not-for-profit (NFP) organisation established to promote and advance the efficient governance, management and administration of commerce, industry and public affairs and the development of secretaryship of organisations through education, training and the dissemination of information for the benefit of Members, applicants for membership and the public generally. The fulfilment of our mission is achieved primarily through the provision of professional education to applicants for membership and ongoing professional development to Members, which ensures that they maintain the highest standard of professional conduct. This in turn ensures that the public can have confidence in the governance frameworks of organisations, regardless of sector or industry.

CSA welcomes the opportunity to comment on the Discussion paper: *Reforms to deductions for education expenses* (the discussion paper).

Executive summary

CSA has serious concerns with the Australian Government's announcement in the Federal Budget for 2013/2014 that introduced a \$2,000 a year cap on tax deductions for work-related self-education.¹ This policy position, which is explored further in the discussion paper, is regressive and our reasons for being concerned with the policy are that:

¹ The Hon Wayne Swan MP, Deputy Prime Minister and Treasurer and the Senator the Hon Penny Wong, Minister for Finance and Deregulation, 'Budget Measures 2013-14' Part 1: Revenue Measures, 14 May 2013, p 30

- demand for professional expertise across all sectors and industries is substantial and constantly growing
- ongoing education not just improves the economy by bringing greater intelligence to the workplace, but is an essential part of the ongoing transformation to a knowledge economy
- the policy runs counter to research that shows that Australia needs to invest more in education and skills — the government itself has recognised this need in various papers it has issued
- limiting the right to claim expense deductions on self-education is counter to this increasing demand for the professionalisation of the population and its benefits to the economy
- the assumptions which underpin the policy are flawed and their application in policy will have a wide range of unintended negative consequences, which will by far exceed the benefits of minor savings in revenue collection
- the proposed measure will worsen the adverse gender balance already prevalent in senior executive and board roles and have an adverse affect on those embarking on their careers and those living in rural and remote regions
- the ATO median data which supports a cap of \$2,000 is a misleading statistic, as it takes no account of the real costs of maintaining professional accreditation which is mandated by some professional bodies in order for such professionals to maintain their professional registration/accreditation, and ignores the fact that education and training vary greatly from sector to sector, industry to industry and occupation to occupation
- the proposed measure will threaten the livelihood of not-for-profit professional associations that derive the bulk of their income from the provision of education and training in order to uphold professional standards. This in turn is likely to result in diminished professional standards and increased risk of harm to the public.

While CSA has already written to the Deputy Prime Minister and Treasurer, and the Shadow Treasurer, to express our concerns about the policy position, CSA wishes to reiterate that we strongly oppose the introduction of a cap on tax deductions for work-related self-education expenses.

Further, CSA also holds serious concerns with the assumptions underpinning the discussion paper, which are without proper basis and narrowly construed. As a result, while CSA will be itself adversely affected by the proposed policy, CSA is concerned that the foundation for the policy position is short-sighted in its application and that the implementation of this policy, or one similar in nature, will have significant unintended negative consequences across a range of industries and sectors and the economy as a whole for many years to come.

As a result, CSA emphasises that we do not support the policy. However, in the spirit of seeking to find solutions that are practical and do not undermine further education and training, we also propose policy positions that can achieve key elements of the Government's policy objectives.

Concerns with the policy position and the assumptions underpinning the discussion paper

CSA has a number of concerns, both with the policy position and the assumptions underpinning the discussion paper. We set out our concerns and our reasons for disputing the assumptions underpinning the arguments in the discussion paper below.

Work-related self-education improves productivity and the economy

One of CSA's key concerns with the government's policy position is that it runs counter to all research findings on the need to invest more in education and training, as the failure to do so will lead to a decline or stagnation in the overall skill levels of Australian employees. CSA notes that professional skills do not sit only with lawyers, accountants and governance and risk

management practitioners. Professional expertise and skills need to be developed continually for all employees, be they blue or white collar workers. There are limits to the capacity of small businesses to provide educational support for their staff. This is also true of sole traders. Whether an electrician, plumber, doctor, nurse or accountant, Australian workers need to keep their skills up-to-date.

There have been multiple reports and papers released over the last decade which highlight the need for the Australian workforce to become better trained and more highly skilled. Some examples include:

- The Australian Workforce and Productivity Commission's *Future focus: 2013 National Workforce Development Strategy*, released in March 2013, which highlights the importance of upskilling, enhancing labour force participation by providing higher level qualifications and supporting the less advantaged to participate in training.
- The CPA Australia publication, titled, *Australia's Competitiveness: From Lucky Country to Competitive Country*, which includes the most comprehensive research conducted on competitiveness to date, and one of its key findings notes that Australia needs to invest more in education and training and a highly skilled workforce to increase its competitiveness levels and become a knowledge economy.
- The government's *White Paper on Australia in the Asian Century* which refers to the government's 'relentless focus on Labor's five pillars of productivity', one of which is 'education and skills', including education beyond secondary school.

Other research confirms the importance of ongoing education. Australian Bureau of Statistics data² shows that long-term unemployed are less well-educated than others. Government investment in education and training are crucial in assisting modern economies to keep pace with the changing skill demands of restructured industries. The assumption underpinning the government's current policy as set out in the discussion paper is that education and training after secondary school are primarily an individual responsibility and purely for individual benefit. However, this ignores the reality that placing the entire responsibility to fund ongoing training and education on economically disadvantaged groups such as women, the young, those in rural or remote regions and the chronically unemployed inflates Australia's skills deficit and refuses acknowledgement that the economy as a whole benefits when that skills deficit is reduced. The capacity to claim expenses on self-education is the one means of assistance available to such groups.

The Grattan Institute's recent report, *Productive Cities*, notes that the share of the economy held by the agriculture, mining and manufacturing sectors is changing. As noted in the report, 'One of the most significant long-term shifts in advanced economies is towards knowledge-intensive activities. These take place across all sectors of the economy.' Knowledge-intensive activities tend to involve customised problem solving, which requires significant intellectual effort. Ongoing education and professional development are central to promoting intellectual effort. Reducing support for ongoing education will result in more people being left behind, leaving Australia more vulnerable to long-term structural unemployment.

Moreover, we note that the Gonski education study showed that secondary education in Australia is two years behind that of China. The Australian Government has committed to introducing the reforms recommended in the Gonski report, in order to ensure that our secondary education provides opportunity to young Australians, regardless of economic background. Yet the Australian Government's proposal to introduce a \$2,000 a year cap on tax deductions for work-related self-education seems to assume that education completes at the end of high school and that it is not also necessary to provide for access to ongoing professional development to those in the workforce, regardless of economic circumstances.

² ABS 2011

Recent reports of job off-shoring in knowledge industries like IT have shown that increasing globalisation and consequent competitive pressures make education and ongoing professional development even more critical. It is no longer sufficient to have a basic set of professional skills as this leaves the economy vulnerable to a 'race to the bottom' in the global labour market. To be competitive, areas of specialised competence need to be nurtured and developed through ongoing education. An example of high cost economies remaining competitive is that of Germany.

CSA is of the view that government policy should encourage working Australians to undertake further professional education, and also encourage entrepreneurship and the development of skills. The proposed policy position does not encourage this, but instead pushes those seeking to develop their knowledge and skills to leave the country to seek out opportunity elsewhere. CSA does not, therefore, support a policy that encourages a 'brain drain'.

No cost/benefit analysis attached to policy

CSA recognises that the policy position is predicated on the government recovering a certain percentage of revenue from the savings made. However, CSA notes that there is no analysis of the financial benefits to the economy as a whole from encouraging people to undertake work-related self-education. Without such analysis, CSA believes that it is impossible to know if the additional revenue (which seems to be a small amount based on the figures supplied in the discussion paper) is greater than the financial benefits to the economy as a whole of encouraging education and training. Given the research alluded to above, noting how important it is to the future economic well-being of Australia that Australians undertake further education and training, CSA is yet to be persuaded that the additional revenue is greater than the financial benefits to the economy as a whole.

Income tax deductions provide a significant public benefit and cannot be construed as a private benefit only

The discussion paper suggests that it values the investments people make in their own skills and recognises the benefits of a tax deduction for work-related self-education expenses. Yet the discussion paper also states that, under current arrangements, these deductions are unlimited and provide an opportunity for people to enjoy significant private benefits at taxpayers' expense.

CSA disagrees with this argument. Indeed, we would argue strongly that 'private benefits' are, in fact, also public benefits, as the ongoing education of the population:

- ensures Australian workers keep their skills up-to-date
- enhances skill development which in turn improves the economic productivity of the nation
- ensures Australian workers can meet the changing skill demands of restructured industries
- provides for increased capacity in problem-solving which enhances Australia's shift to a knowledge economy.

In order to support the ongoing professionalisation of the Australian workforce, and improve the economy by bringing greater intelligence to the workplace, Australia needs to assist workers to invest more in education and skills. The investment undertaken by individuals in contributing to greater professional expertise benefits the nation and economy and should be assisted by government policy, not undermined by it.

The unintended consequences of applying a cap on deductions

CSA is also strongly concerned that the application of a cap on deductions will serve to further worsen access issues for many who currently already face disadvantage in promoting their career development. CSA believes that the adverse effect will most likely be felt by women seeking to move into leadership roles in the workplace, those embarking on their careers, and those in rural and remote regions.

CSA notes that the representation of women at senior executive and board levels underpins a desire to improve long-term performance and utilise the full range of human capital available to the organisation.

However, despite growing support for improving gender diversity on boards and in senior executive roles, the limited gender balance of Australian corporations was demonstrated by the *Australian Census of Women in Leadership 2012*³ (the Census). The *2012 GradStats* report by Graduate Careers Australia also shows that the current graduate gender pay gap across all occupations is 9.1 per cent⁴ — a generation of working women is being created who will never be able to catch up to their male peers either in salary, superannuation or hierarchy.

Women are participating in professional development across all sectors in order to demonstrate their capacity to undertake senior executive roles. Given that women are already struggling to be remunerated on equal terms with men, the policy being introduced by the Australian Government further undermines women's capacity to enhance their professional skills and expertise. It adversely affects a financially less well-off section of the population in their quest to develop themselves professionally.

The policy to limit self-education expense deductions also particularly affects adversely those embarking on their careers who undertake formal professional development pathways in recognition of their need to build knowledge. The policy limits access to professional development opportunities for this group of employees, who are financially less well-off due to their having recently commenced their careers and being at the lower end of the wage scale, which in turn inhibits their career progression. The policy therefore inhibits the ongoing professional development of Australian workers generally.

Placing a limit on the self-education costs that can be recovered also carries the greatest disadvantage for people travelling from rural and remote locations, or Western Australian and North Territorian attendees who are often required to travel to the eastern seaboard cities for major training and education opportunities. CSA notes that the eastern seaboard cities, such as Brisbane, Sydney and Melbourne, are the major centres where there are increased levels of investment in technology and cutting-edge developments in professional practice, and where most of the important innovation occurs. Certainly in relation to ongoing professional development for those in the professions, continuing education is offered primarily in the eastern seaboard cities, particularly the annual conferences where international speakers are brought in to provide perspectives of global innovation and practice. In effect, therefore, the policy penalises those in rural and remote regions whose access to ongoing education and training will sustain greater costs than those living in cities, given that the fees attached to tuition do not cover the attendee's costs of travelling to the education or training venues, accommodation expenses or lost income opportunities for the self-employed and small business owners.

³ Equal Opportunity for Women in the Workplace Agency (now the Workplace Gender Equality Agency), 2012, *Australian Census of Women in Leadership*, Australian Government. The report showed that the number of women on the boards of Australian Securities Exchange (ASX) 200 companies had increased to 12.3 per cent in 2012, up from 8.4 per cent in 2010. However, this change in gender balance was not mirrored at the senior executive level, with only 9.7 per cent of senior executive roles in ASX 200 companies filled by women in 2012 — a very modest rise from 8.0 per cent in 2010. When coupled with a further finding from the Census that there are 60.6 per cent of ASX 200 companies that do not have any female key management personnel (the accounting standards term essentially relating to the senior executive team having the authority to direct or control the activities of a company), the report shows a dispiriting lack of progress on improving gender balance outcomes in Australian companies.

⁴ Workplace Gender Equality Agency: *2012 GradStats* report by Graduate Careers Australia shows median full-time employment starting salaries for male graduates are \$55,000 (up from \$52,000 in 2011), compared to \$50,000 for women (no change from 2011), that is, young male graduates receive on average \$5,000 more than their female counterparts.

Examples of unintended consequences

Further training and education development may also be crucial for some industries affected by regulatory change or reform.

Example 1

CSA notes that recent reforms to the financial planning industry, introduced by the Australian Government, demand that all financial planners and representatives undergo training. Without such professional development, financial planners will be unable to offer financial advice — ongoing education is therefore a requirement of the changed regulatory framework. This is also true of the mortgage broking industry.

CSA believes that the costs of this professional development will not be able to be met by many in the industry if their claims of self-education expenses are limited to \$2,000 per annum. There will be pressure on employers to cover the costs. This in turn will place greater emphasis on the consolidation of the financial planning industry, with the likelihood of only four or five 'brands' offering financial planning over time. This runs counter to the policy initiative introduced by the Labor Government of ensuring choice for Australians in relation to financial planning.

Example 2

CSA notes that the not-for-profit (NFP) sector has recently undergone significant reform to the regulatory framework, including the commencement of a new national regulator, the Australian Charities and Not-for-profit Commission (ACNC) on 3 December 2012, and currently the governance standards and financial reporting regulations are before parliament.

There is a strong recognition across the sector that many will need to undertake education in governance and risk management, to ensure accountability to stakeholders as to the prudent financial management of the organisation and its sound stewardship. NFP organisations need to demonstrate that they are compliant with the governance standards and report on the management of finances, including donor funds.

The NFP sector is under-resourced and often volunteer-staffed. Education will often not be paid for by the organisation itself. It is individuals who wish to contribute to the NFP sector who will undertake education. Limiting their access to self-education expense deductions will deter them from undertaking such professional development, at the very time when stakeholders, the ACNC and the government itself is looking for greater transparency and accountability from the sector. To shine a spotlight on the NFP sector, which is financially under-resourced, and then make it difficult for those in the sector to undertake further education to meet enhanced regulatory and stakeholder demands, is counter-productive.

Compulsory professional development and professional standards should be supported by public policy, not undermined by it

In many spheres, continuing professional education is required in order to retain a practising certificate, that is, it is not an optional matter. Professional associations recognise that ongoing professional development is the maintenance and continuous improvement of knowledge, skills and abilities. Such professional organisations have requirements in place for their members to obtain sufficient ongoing education to maintain their professional accreditation and membership. It is essential that in the relevant field of expertise, professionals are regarded as promoting and practising the highest standards. The broader public expect that a minimum level of knowledge and expertise should be maintained in order for services to be provided.

The cost of continuing professional development (CPD) is compulsory, that is, it is not discretionary expenditure for a variety of professional groups. Some examples of the CPD requirements for different professions, sectors and industries are captured in the table below.

Profession	Requisite CPD/Continuing Education Units/Time
Fellow or Associate of Chartered Secretaries Australia	A minimum of 15 hours per year
Member of CPA Australia	A minimum of 20 CPD hours each year
Member of NSW Law Society	A minimum of 10 Mandatory Continuing Legal Education (CPD) units each year
Member of REINSW (the Real Estate Institute of NSW)	A minimum of 12 points of professional development each year
Member of the Institution of Surveyors NSW	A minimum of 15 CPD points each year
Member of the Pharmaceutical Society of Australia	A minimum of 40 CPD credits each year
Registration with the Dental Board of Australia	A minimum of 20 CPD hours each year
Member of the Master Builders Association of NSW	A minimum of 12 CPD points each year

CSA notes, that in some instances, CPD requirements are mandated through quasi-legal structures such as the Australian Health Practitioners Regulation Agency (AHPRA) which is the organisation responsible for the implementation of the National Registration and Accreditation Scheme for many medical professions across Australia. The renewal of a licence or certificate of registration for a real estate agent, for example, under the *Property, Stock and Business Agents Act 2002* is conditional on licence and certificate holders undertaking Continuing Professional Development (CPD) each year.

Under a policy position which restricts expense deductions, CSA also believes that financial access to vital education and training will be made difficult. Attendance at seminars may become insular, by limiting access to CPD to those living in rural and remote regions and also those living in other states. For example, those living in rural or remote areas will be dissuaded from travelling interstate and overseas to gain a wider perspective. For example, doctors will be discouraged from attending international conferences presenting the latest research and techniques — Australia suffers from the tyranny of distance and the majority of conferences on the latest practice in certain fields are generally held overseas, not in Australia. CSA notes that the policy position will also have a negative impact on both the airline and accommodation sectors, as a result.

CSA is particularly concerned that the policy position will also undermine professional organisations that are tasked with upholding professional standards within particular industries or professions for the broader protection of the public. Professional associations, many of which are also NFP organisations, provide the main source of education and training for their members with respect to professional standards, and often rely heavily on the income derived from the provision of these education programs. Professional education is rigorously developed and maintained, at times involving maintenance of benchmark practices in accordance with Departments of Education around Australia in order to retain accreditation. Such professional education fosters best practice and ethical behaviour.

The institution of a cap on work-related education expenses will decrease both enrolments in education programs in order to attain membership, and attendances at conferences, seminars, workshops and briefings to maintain membership and integrity of professional standards. Such decreases will reduce the revenue available to professional associations, which rely on a combination of membership fees and education and training to operate. They do not receive government funding in their role of maintaining professional standards, but are entirely self-funding. Reductions in revenue will lead in the short term to less expenditure on education

programs to maintain cutting-edge standards, and in the long run could see such professional organisations cease to exist. If such bodies cease to exist, there will no longer be an oversight of the attainment and maintenance of professional standards.

Any decrease in the oversight of professional standards would risk harm to the Australian public. For example, if doctors are not required to undertake ongoing professional education and have no body overseeing their continued capacity to meet high standards of practice, the Australian public has no means available to it of assessing if medical practitioners are capable of undertaking their responsibilities. This would pose a grave risk to those entering operating theatres or undergoing medical procedures. CSA is at a loss to understand how any government could implement a policy that risked a decrease in the oversight of professional accreditation and standards.

The non-homogenous nature of the Australian workforce

CSA is also concerned that both the policy position and discussion paper assume that the Australian workforce is homogenous in nature, that is, that a cap or limit is an appropriate measure because it will impact evenly across all people who access work-related self-education expense deductions.

CSA believes that this is not a true reflection of the Australian workforce and that a one-size-fits-all approach is inappropriate, because the education needs of the workforce vary greatly across sectors, industries and occupations. The current arrangement, which does not impose a cap on access to work-related self-education expense deductions, is an appropriate measure because it allows individuals from different sectors, industries and occupations to use income tax deductions relevant to their education and training needs.

Paragraph 31 of the discussion paper acknowledges that training and education requirements vary considerably across industries and occupations, and that employees undertake training in varying forms and incur variable costs. However, the discussion paper also asserts that the current rules allow for significant private benefit, and that a 'majority of people who undertake education or training have expenses well below \$2,000'.

The discussion paper also references various other 'median' totals as being support for a reasonable cap or limit being set at \$2,000 per annum for work-related self-education expense deductions.

CSA believes that this approach is erroneous. Work-related self-education costs vary significantly across industries, sectors and occupations. For example, a surgeon will incur far greater expenditure in maintaining professional accreditation than a plumber. Each undertaking has an education requirement, but the cost of meeting that education requirement differs considerably according to occupation. The different costs reflect the amount of education required to achieve professional accreditation, the level of skills required to perform certain professional tasks, the technological developments in a particular field, and also the resources required to seek and attain ongoing professional education.

CSA submits that the policy position, therefore, is illogical. By acknowledging that work-related self-education costs vary greatly and then relying upon 'median' costs to justify the policy position, the discussion paper fails to properly examine the consequences of imposing a cap indiscriminately.

For example, chart one on page six of the discussion paper correctly identifies that the median claim for formal education expenses varies according to taxable income range, with those earning over \$180,000 more likely to claim a higher median deduction. However, rather than being demonstrative of income tax deduction abuse, as postulated in the media release announcing the policy, these figures reveal a fair reflection of the increased costs attached to

ongoing professional education for those performing specialist roles. Society expects those in high-pressure and high-performing roles (and highly remunerated roles) to undertake the education commensurate with the level of responsibility entrusted to them.

Placing the Australian income tax deduction scheme in context

CSA is concerned that the arguments and rationale that underpin the discussion paper and policy position also make assumptions about the Australian income tax deduction scheme which have not been examined in a proper context.

For example, the discussion paper sets forth an argument that Australian income tax deductions are too generous when compared to other jurisdictions. While CSA has already noted the wider public benefit that accrues from encouraging further education and training, including the central feature that these endeavours play in increasing Australia's productivity, CSA also believes that the Australian income tax regime should not be compared with other jurisdictions out of context.

CSA believes that the problem with the approach set out in the discussion paper is that it cherry-picks income tax deductions for work-related self-education expenses as the sole area where the Australian income tax regime should align with regimes in other jurisdictions, while failing to acknowledge that the Australian income tax regime differs from other regimes in almost every respect. On the basis of the argument set out in the discussion paper, Australia's income tax deduction scheme should align with, for example, that operating in the United States, where the rules allow a person to claim deductions for mortgage repayments.

Further, comparison with other jurisdictions is also irrelevant because of geographic differences. CSA notes that if an individual lives in the United Kingdom and has to travel to Europe to undertake further training, their travel cost is a train fare; whereas if an individual living in Australia who needs to travel to Asia, Europe or the United States for further education and training can only participate in such overseas education by flying to the destination, with significantly increased costs attached to travel.

Looking at the internal workings of the income tax regime, CSA notes that the discussion paper also puts forward several arguments which do not withstand scrutiny.

In the first instance, CSA notes that the current income tax regime is premised, regardless of the amount of income earned, on allowing deductions based on earning income, that is, a person is allowed to claim deductions for expenses that are directly related to earning an income. However, the policy position and discussion paper ignore this central premise of the tax regime:

- If a person expends more in one year in order to earn an income, that is their misfortune. The deduction scheme in the taxation legislation is not based on the amount of income earned or expenses incurred, but on the link between income earned and expenses incurred. Placing a cap on work-related self-education expenses is illogical and entirely artificial, when the premise of the taxation legislation is one of deductions based on this link.
- The discussion paper argues that those embarking on higher education directly from secondary school are not currently able to claim any expense deduction, and that, therefore, those undertaking further work-related education and training should similarly not be able to attract deductions higher than \$2,000 per annum. However, this argument ignores the reality that those undertaking undergraduate study directly from school are not earning income and have not been earning income prior to their entering higher education from secondary school. This argument is illogical.
- It is similarly unclear as to why self-education expenses warrant a different treatment from other work-related expenses. CSA notes that the discussion paper argues that those travelling overseas should not be able to claim the costs of that travel beyond \$2,000 (even though in many instances the travel to an overseas destination in the form of an economy airfare would be \$2,000, even before the taking into account the costs of

the education itself). However, a person travelling overseas on a business trip, under the current tax regime, is able to claim work-related expenses provided that they do not claim expense deductions for the non-work related aspects of the travel. CSA believes that there is no logic as to why one aspect of work-related expense deductions is being subject to a cap, while other aspects are not. Again, the argument is illogical.

In fact, CSA believes that when the arguments for the policy position are limited to one particular aspect of the income tax deduction scheme without regard to the total context and circumstances, it is difficult to accept that the comparisons and conclusions are valid.

Employers will not be willing to fund the gap in education and training for their employees

CSA is also concerned that the current policy position as set out in the discussion paper is clearly intent on moving the burden of education costs from the individual to the employer.

The willingness of employers to fund ongoing skills and work-related education varies hugely. Some employers have an active policy to assist in this regard. Others do not. Furthermore, the ability of organisations to fund their employees to undertake education and training is largely dependent on the prevailing economic conditions and resources available to the organisation. At a time when business is expressing concern as to future economic conditions and clearly seeking to cut costs, it is dangerous to assume that employers will absorb the costs of funding ongoing work-related education even though they may believe that such training and education will deliver benefit to the business over time. The discussion paper assumes a common position across all employers, which is not substantiated with any evidence, and which current practice does not support.

Further, seeking to move the expense burden to employers does not acknowledge that the self-employed and small business owners fund all of their own self-education, some of it made compulsory by increasing government regulation and professional membership accreditation minimums, as highlighted in the examples above. These individuals, who are considered the backbone of Australia's taxpaying population, do not have the luxury of financial support from a big business employer. CSA also notes that there is an increasing use of casual and contract workers, and that there are many older workers who have been forced to become 'consultants' as a result of being unable to obtain permanent employment. These individuals, similarly, will be responsible for funding their own self-education in order to advance their skills and/or knowledge.

As noted earlier, organisations in the NFP sector do not have the resources or financial capacity to pay for their directors, employees and volunteers to undertake further training and education, despite a desire to further educate the sector. In the NFP sector, the funding of work-related education will ultimately fall to the individual. CSA strongly believes government policy should support this reality rather than ignore or undermine it.

CSA recommendations

CSA Members support a proper review of work-related self-education expense deductions, as we recognise that the Australian Government is considering all aspects of revenue in the current economic climate.

However, we are very concerned that the policy to cap self-education expense deductions at \$2,000 is a knee-jerk reaction that is short-sighted and has not taken into account the negative impact it will have on the Australian economy overall as it discourages employees from undertaking further education and training to improve knowledge and skills. It is difficult to see how Australia can continue to move towards becoming a knowledge-based economy if we discourage our workers from undertaking ongoing education and professional development.

Above all, we believe that, in order to address any concerns that work-related self-education expense deductions are at times being abused, any policy position should be based on targeting the abuses, rather than undermining Australia's capacity to assist its working citizens to undertake further education and training to improve their knowledge and skills. CSA believes that the proposed policy penalises all working Australians seeking to further their work-related knowledge and skills by placing an artificial cap on expense deductions, rather than targeting those who seek to abuse the tax regime.

CSA does not support the policy but, in the spirit of seeking to find solutions that are practical and do not undermine further education and training, we offer the following suggestion.

Suggestion: Do not limit access to education but place a limit on ancillary expenses

CSA Members recommend that an alternative policy is that there should be:

- no limit to the expense deductions attached to the education
- an upper limit on any ancillary expenses attached to that education, with 'reasonable' expenses being accepted so that non-east coast, non-city-based dwellers are not the ones most disadvantaged by the government's change of policy. What is considered reasonable could have regard to the distance to be travelled to attend the event and the duration of the education component and the location of the venue.

The benefits of this approach are that:

- the need to provide for continuing professional development across the workplace will not be hindered
- those most in need of ongoing education in order to provide for opportunities in the workplace, such as women, the young, those embarking on new careers and those based in rural or remote areas will not be adversely affected
- providers of educational courses that combine training and ancillary expenses in their fees will be forced to provide a break-down of the costs of the tuition and the ancillary expenses for tax deduction purposes.

If the government is concerned that ancillary expenses are being abused, it can set a limit that only economy class airfares will be recognised, as well as reasonable daily living expenses for the relevant city set out in the tax rules. Exceptions may need to be made in relation to economy travel where people have serious disabilities which necessitate business class seating.

Again, we stress that this policy position targets abuses rather than constraining Australians from undertaking further education and training.

Set the cap higher than \$2,000 per annum

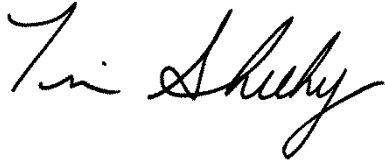
While this is not our preferred position, we have noted to the government that should it be committed to implementing a cap, **CSA Members recommend** that it must be set higher than \$2,000 per annum.

As highlighted above, we believe that using the average of \$900 is a misleading statistic. This figure does not differentiate between education and ancillary costs, between employer-funded and self-funded costs, and between mandatory education and voluntary or top-up costs.

In light of the above concerns and recommendations, CSA provides the following responses to the questions set out in the discussion paper.

We would be more than happy to meet with you to discuss our comments.

Yours sincerely

A handwritten signature in black ink that reads "Tim Sheehy". The signature is written in a cursive, flowing style.

Tim Sheehy
CHIEF EXECUTIVE

Consultation Questions

1. **In your industry or field are there studies or courses that are compulsory and must be completed in order to meet licence requirements or other continuing professional development training?**
 - a. **What is the average amount of the expense?**
 - b. **What is the highest amount of the expense?**
 - c. **What is the nature of the courses?**

CSA Members recognise that there is an increased demand for enhanced professional expertise in governance in all sectors. Those who wish to practice governance can only join this organisation upon completion of either:

- a two-year fully accredited Applied Graduate Diploma in Governance, or
- a six-subject Certificate in Governance Practice, Certificate in Governance and Risk Management and Certificate in Governance for Not-for-Profits.

The postgraduate qualification is undertaken by those with experience and skill who need to deepen their understanding and knowledge of governance and risk management. Those developing senior careers in governance and risk management undertake the Graduate Diploma. Completion of the Graduate Diploma involves the completion of six subjects at a cost \$1,950 per subject and available across two semesters per year. Typically students take one or two units per semester so incur costs in the range of \$3,900 to \$7,800 per annum.

The Certificate courses are undertaken by those new to the field who are required to embark on education in governance and risk management in order to fulfil increased responsibilities within the workplace. CSA's Certificate Courses require the completion of six short courses costing around \$499 each and available at multiple, frequent intervals across the year, including in three day intensives in most Australian capital cities. Thus an annual cost of \$3,000 is common in order to complete this lower level of membership designed for those needing a more introductory level of knowledge.

That is, membership of CSA is not 'chequebook' membership. It is dependent on the completion of rigorous and fully accredited education.

In both instances, the professional responsibilities attached to implementing sound governance frameworks in Australian organisations demands a level of knowledge that can only be gleaned through education. Once membership has been attained, Members must undertake continuing professional development (CPD), which provides them simply with the right to earn their income by virtue of their profession.

CPD is the maintenance and continuous improvement of knowledge, skills and abilities. It is compulsory for all CSA Fellow, Associate and Certificated Members.

CPD plays an important role in:

- educating Members on the latest developments in governance, risk management and compliance
- keeping Members' skills current
- reassuring regulators, employers and the wider community that CSA Members have the technical knowledge and skills to be effective governance professionals.

Examples of CPD offered by Chartered Secretaries Australia include face-to-face attendance at professional development events, such as courses, seminars, updates, conferences/conventions, workshops and master classes — such events range in cost from:

- \$405 for a half-day training courses
- \$810 for a full-day training course

- \$970 for a one-day conference
- \$2,345 for a two-day conference and
- \$2,850 for a two-day conference and two workshops.

As can be seen, the costs of maintaining professional accreditation can be significant, and will vary according to the level of skills education that is required. These costs do not take into account the costs of travelling to the venue, accommodation expenses or lost income opportunities for the self-employed and small business owners.

The vast majority of CSA's Members also hold qualifications in other areas, such as law and accounting. This means that our Members are also members of other professional bodies and associations, such as the various state-based law societies and accounting bodies. CSA is cognisant that CSA Members, therefore, will also have similar requirements to fulfil for those organisations.

For example, CSA Members who are also members of the New South Wales Law Society are required to pay an annual membership fee to the Law Society of roughly \$700, as well as completing 10 units of continuing legal education (CLE) at an average cost of \$150 per CLE unit.

CSA Members who are also Members of CPA Australia, one of the world's largest accounting bodies, are similarly required to pay to CPA Australia an annual membership fee and complete a minimum of 20 CPD hours each year at a rough cost of \$100 per hour.

2. Is training in your industry predominantly held in Australia or overseas? Can you provide examples?

Education and training in the governance and risk management for CSA Members is predominantly held in Australia, given that the content is frequently connected to legal and regulatory requirements (that is, it is jurisdictionally specific). However, Members need to understand global trends in governance, particularly in light of regulatory convergence. They are also able to use their skills overseas in other jurisdictions, and may, if working for a multi-national organisation or a global conglomerate, need to be trained in the law of other jurisdictions. CSA notes, similarly, that many Australian companies currently outsource functions to other jurisdictions and their in-house lawyers need to understand the law in those other jurisdictions. International membership is intended to aid in this process.

CSA Members, after completing the Graduate Diploma of Applied Corporate Governance, also receive membership of the Institute of Chartered Secretaries and Administrators (ICSA), an international association of those practising in governance, which is intended to assist in the promotion and advancement of the effective governance and administration of organisations in the private and public sectors through the continued development and application of high level governance skills, knowledge and research and administrative best practice globally.

CSA believes that the delineation between where training is predominantly held, in a similar manner to providing 'median' statistics, does not take into account the fact that education and training requirements vary greatly across industries, sectors and occupations. Whereas some aspects of professional development will be appropriately catered for within the Australian context, CSA notes that for some professions, cutting-edge developments and high-level education and training occur offshore. CSA reiterates that an undifferentiated cap on work-related self-education expenses does not encourage employees to seek out appropriate higher level education and training opportunities.

3. In employment relationships, are employees largely obliged to incur work-related education expenses themselves or are they employer provided? Do you anticipate this changing in response to this measure?

As stated earlier, the willingness of employers to fund ongoing skills and professional education varies hugely. Some employers have an active policy to assist in this regard. Others do not.

Furthermore, the ability of organisations to fund their employees to undertake education and training is largely dependent on the prevailing economic conditions and resources available to the organisation. CSA does not believe that it can be assumed that employers as a group would be looking to incur work-related education expenses in the current economic climate and we do not anticipate this position to change in response to this measure. The policy position offers employers no incentive to fund the education and training of employees.

As noted above, CSA also believes that the policy position does not acknowledge that the self-employed and small business owners fund all of their own self-education, some of it made compulsory by increasing government regulation and professional membership accreditation minimums. Likewise, there are concerns that casual and contract workers, who are responsible for their own self-education in order to advance their skills and knowledge will be disadvantaged.

4. Are you aware of examples where education expense deductions can be claimed under the current arrangements, even where significant private benefits are enjoyed?

CSA believes that, in order to address any concern that work-related self-education expense deductions are being abused, any policy position should be based on targeting the abuses, rather than undermining Australia's capacity to assist its working citizens to undertake further education and training to improve knowledge and skills.

The government should be able to demonstrate that a particular problem exists and that the government policy position appropriately addresses any identified problem. CSA does not believe that either the policy position announcements or the discussion paper adequately set out an argument that significant private benefits are not also public benefits.

As noted earlier, we would argue strongly that 'private benefits' are, in fact, also public benefits, as the ongoing education of the population:

- ensures Australian workers keep their skills up-to-date
- enhances skill development which in turn improves the economic productivity of the nation
- ensures Australian workers can meet the changing skill demands of restructured industries
- provides for increased capacity in problem-solving which enhances Australia's shift to a knowledge economy.

In order to support the ongoing professionalisation of the Australian workforce, and improve the economy by bringing greater intelligence to the workplace, Australia needs to assist workers to invest more in education and skills. The investment undertaken by individuals in contributing to greater professional expertise benefits the nation and economy and should be assisted by government policy, not undermined by it.

5. Are there any lessons for Australia in the experiences of other countries with restrictions on education expenses deductions?

CSA reiterates our earlier comments on the unique nature of the Australian income tax regime. It is inappropriate to restrict education expenses deductions on the basis of seeking to align with the tax regimes in other jurisdictions, when the tax regime in Australia does not align with other

jurisdictions in most respects. CSA believes that any argument which focuses on one particular, narrow aspect of the income tax deduction scheme as the basis for a policy position change is not sound policy argument. Rather, it presents as an obvious example of a comparison being held up to support a policy position regardless of its inappropriateness or inapplicability or illogicality in the Australian context.

Given the use of a comparison argument, CSA is also disappointed that the discussion paper does not canvas overseas income tax deduction regimes to provide an explanation of why a comparison approach might be relevant to the Australian context.

6. Should the \$250 no-claim threshold under section 82A of the ITAA 1936 be removed when the \$2,000 cap is introduced?

CSA notes the discord in reasoning applied to maintaining a no-claim threshold. On the one hand, the presence of a no-claim threshold recognises that there may be a private benefit which accrues in relation to work-related self-education expenses, and restricts the use of claiming expenses below the threshold amount. However, the proposal for an upper limit may result in a tax payer effectively receiving a negative personal benefit in so far as part of their genuine professional development is not an allowable deduction.

CSA believes that it is illogical to retain the no-claim threshold in the event that a cap or limit is introduced, and that the \$250 threshold should be removed if a cap is to be introduced.

7. How should this be prioritised?

While CSA strongly opposes the imposition of a cap on education expense deductions, we recognise that, in the event that the government is intent on introducing the policy, the removal of the no-claim threshold can be offset by the savings accrued under the change in policy.

8. What types of assets that relate to an education activity are placed into a low-value pool or similar small business pool?

We leave it to others to respond to this question.

9. What are the advantages/disadvantages of the 'reasonable estimation' method proposed above?

We leave it to others to respond to this question.

10. Is the use of low-value pools under these circumstances appropriate?

We leave it to others to respond to this question.

11. Are there any unintended consequences from the legislative approach proposed for these reforms?

CSA refers to our earlier comments canvassing the potential unintended negative consequences attached to the proposed policy position. Rather than repeat the contents of our covering letter, we request that the unintended negative consequences that we detail in our covering letter be taken on board as our response to this question.

CSA otherwise leaves it to taxation professionals to highlight whether there will be any unintended consequences in regards to the taxation regime which arise as a result of the reforms.

12. What practical aspects of the proposed reforms need further consideration?

CSA believes that there will be many unintended negative consequences which arise from the proposed reforms. The comments in our covering letter canvass the potential practical impacts which the policy position will have on a variety of industries, sectors and occupations.

Rather than repeat the contents of our covering letter, we request that the arguments against the policy position that we detail in our covering letter be taken on board as our response to this question.

In relation to the proposed amendments to the taxation legislation, CSA notes that the discussion paper at paragraph 49 suggests that an education expense included in a payment for broader services should be apportioned to include a calculation of the education-related component of the cost. CSA opposes this proposed amendment, on the basis that such a proposal is unworkable in practice. It is likely to create an onerous administrative and compliance burden without providing any benefit. It will also cost the ATO significant administrative costs to check businesses without any benefit to the oversight of the taxation regime.

CSA otherwise leaves it to taxation professionals to highlight any other practical implications from the proposed amendments to tax laws.

13. Are there any interactions with other areas of the tax law that need to be addressed?

CSA notes that the adjustments to fringe-benefit taxation (FBT) are complex and there would be significant costs to organisations in undertaking these changes. CSA otherwise leaves it to others to respond to this question.

14. Do you consider that further amendments will be required to the tax law outside of those already mentioned in the discussion paper?

We leave it to others to respond to this question.

15. Are there alternative approaches that you would like to see considered? How would they work in practice and are there any precedents in Australia or other jurisdictions?

CSA strongly opposes the introduction of a cap on tax deductions for work-related self-education expenses. We are also strongly of the view that the evidence supporting the policy position as set out in the discussion paper has been prepared after the development of the policy position, rather than on the basis of informing the development of policy.

As a result, CSA believes that the proposed policy reform is ill-informed and will result in a range of unintended negative consequences, as highlighted in our covering letter.

In the first instance, CSA believes that the government should target those they believe are currently abusing work-related self-education expenses deductions, rather than undermining Australia's capacity to assist its working citizens to undertake further education and training to improve knowledge and skills. CSA is unaware of examples of any abuses of work-related self-education expense deductions and, until shown evidence to the contrary, believes that the problem is limited to a small number of individuals. It is appropriate that these individuals be asked to account for any deemed excessive deductions. However, this is quite a different matter than changing the current policy in its entirety.

CSA believes that the proposed policy penalises all working Australians seeking to further their work-related knowledge and skills by placing an artificial cap on expense deductions, rather than targeting those who seek to abuse the tax regime.

As noted in our covering letter, an alternative could be to not limit access to education expense deductions, but instead limit ancillary expenses. CSA recommends that an alternative could be:

- no limit to the expense deductions attached to the education
- an upper limit on any ancillary expenses attached to that education, with 'reasonable' expenses being accepted so that non-east coast, non-city-based dwellers are not the ones most disadvantaged by the government's change of policy.

If the government is concerned that ancillary expenses are being abused, it can set a limit that only economy class airfares will be recognised, as well as reasonable daily living expenses for the relevant city set out in the tax rules.