



18 October 2024

Senate Standing Committees on Economics
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**UNSW Tax and Business Advisory Clinic – Submission to the Senate
Economics References Committee Inquiry into Australia's Taxation System**

Thank you for the opportunity to make a submission to the Senate Economics References Committee Inquiry into Australia's taxation system.

Established in 2019, UNSW Tax and Business Advisory Clinic's long-standing commitment to exclusively serving clients in serious financial hardship has been recognised with both international- and national-level accolades.¹ This submission is guided by a combination of our clinical observations and research findings and is focussed on Question 1; namely, the social and economic impact of taxing people who earn less than the cost of living.

Question 1: The social and economic impact of taxing people who earn less than the cost of living

The following three themes emerge from our aggregated client casework data:

- Weaponisation of the tax system by perpetrators of financial abuse
- Disproportionately high tax compliance costs
- Barriers to accessing Centrelink support

Each are dealt with in turn as follows:

- **Weaponisation of the tax system by perpetrators of financial abuse**

Evidence confirms that financial stress and economic hardship for women is significantly associated with economic abuse.² This type of abuse is increasingly recognised as a strategy of the coercive control perpetrated as part of domestic and family violence ('DFV'). DFV '[i]ncludes any behaviour, in an intimate or family relationship, which is violent, threatening, coercive or controlling, causing a person to live in fear. The behaviour is usually part of a pattern of controlling or coercive

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

² Gendered Violence Research Network (Jan Breckenridge, Co-Convenor), *Understanding Economic and Financial Abuse in Intimate Partner Relationships* (October 2020).

behaviour'.³ Economic abuse (also known as financial abuse) is now recognised as a form of DFV and forms part of a pattern of coercive control of one partner or family member over another.⁴ Concerningly, the extent of perpetration remains largely under-estimated.

Clinical observations suggest that the majority (that is, 65%) of financially vulnerable women needing pro bono tax services also experience economic abuse.⁵ In their screening of clients, Kayis-Kumar et al utilise the Revised Scale of Economic Abuse (SEA2), which is a 14-item measure of economic abuse experienced by women and perpetrated by their partners which helps to screen for economic restriction and economic exploitation in relationships.⁶ Inferring from this observation it is possible that over 26,000 financially vulnerable women across Australia each year experience economic abuse and have an unmet need for professional tax advice – and that this number is likely an underestimate.⁷

This calls into questions whether the operation and design of the tax and transfer system helps or hinders victim-survivors of economic abuse.⁸ In particular, the focus of this submission is on the treatment of 'sexually transmitted tax debts'. This is not a trivial issue. It is well-established that women who leave abusive relationships generally do so with 'sexually transmitted debts',⁹ reduced assets, insecure housing and longer-term economic insecurity.¹⁰ Most victim-survivors continue experiencing economic abuse even escaping abusive relationships, and many cite financial instability as a key factor driving them back into abusive relationships.¹¹

³ Gendered Violence Research Network (Jan Breckenridge, Co-Convenor), *Understanding Economic and Financial Abuse in Intimate Partner Relationships* (October 2020), 4, quoting New South Wales Government, *It Stops Here: Standing Together to End Domestic and Family Violence in NSW* (Report, 2014) 7.

⁴ Gendered Violence Research Network (Jan Breckenridge, Co-Convenor), *Understanding Economic and Financial Abuse in Intimate Partner Relationships* (October 2020), 8-10.

⁵ Kayis-Kumar A, Lim Y, Noone J, Walpole M, Breckenridge J and Book L 'Identifying and supporting financially vulnerable women experiencing economic abuse: A grounded theory approach' (2023) 21(2) *eJournal of Tax Research* 173-202.

⁶ Adams AE, Greeson MR, Littwin AK and Javorka M, 'The Revised Scale of Economic Abuse (SEA2): Development and initial psychometric testing of an updated measure of economic abuse in intimate relationships' (2020) 10(3) *Psychology of Violence* 268-278.

⁷ Each year there are around 80,000 financially disadvantaged people who are unable to access independent professional tax advice: Kayis-Kumar A, Noone J, Lim Y, Walpole M and Mackenzie G, 'Tax Accounting for Financial Wellbeing: Quantifying the Unmet need for Pro Bono Tax Advice' (2022) 51(3) *Australian Tax Review* 228-257. Women comprise approximately half of this cohort. Extrapolating the finding that 65% of women referred to the clinic are experiencing economic abuse, this means around 26,000 women who seek financial counselling are also experiencing economic abuse. Importantly, this is an underestimate given the analysis is limited by the segment of the population that is aware of the existence of financial counsellors to assist people in financial distress, and does not include other referral pathways like domestic violence services, family lawyers, womens' shelters, mental health services, among others. So, identifying and quantifying the merits further research.

⁸ There is an emerging literature on the weaponisation of the child support system: Cook K, A Byrt, Burgin R, Edwards T, Coen A and Dimopoulos G, 'Financial Abuse: The Weaponisation of Child Support in Australia' (Swinburne University of Technology and the National Council of Single Mothers and their Children, 2023). <https://doi.org/10.26185/72dy-m137>.

⁹ Breckenridge et al, *Understanding Economic and Financial Abuse in Intimate Partner Relationships* (Report, October 2020); available at: <https://www.commbank.com.au/articles/newsroom/2020/11/UNSW-financial-abuse.html>.

¹⁰ Breckenridge et al, *Understanding Economic and Financial Abuse in Intimate Partner Relationships* (Report, October 2020); available at: <https://www.commbank.com.au/articles/newsroom/2020/11/UNSW-financial-abuse.html>.

¹¹ Sanders CK, 'Economic Abuse in the Lives of Women Abused by an Intimate Partner: A Qualitative Study' (2015) 21(1) *Violence Against Women* 3-29; see further: Breckenridge et al, *Understanding Economic and Financial Abuse in Intimate Partner Relationships* (Report, October 2020); available at: <https://www.commbank.com.au/articles/newsroom/2020/11/UNSW-financial-abuse.html>.

Despite recent legislative reforms targeting domestic abuse,¹² there remains a pressing need for a fundamental shift in the way that government systems, policies and practices recognise and support victim-survivors.¹³ 'Economic abuse' (also known as 'financial abuse') is now recognised as a form of domestic abuse and forms part of a pattern of coercive control of one partner or family member over another.¹⁴

The Federal Government is making significant strides in providing legislative and regulatory protections for victim-survivors of coercive control.¹⁵ It is encouraging that our recommendations for reform have been cited and endorsed in recent policy development – notably the Report of the Rapid Review of Prevention Approaches was the first national policy document to recognise abuse of tax systems as causing significant harm, as outlined in its Recommendation 16 (extracted below):



Recommendation 16

The Commonwealth and state and territory governments to undertake an immediate audit of how DFSV perpetrators are weaponising government systems, and to respond to these findings. This audit and subsequent plans for reform should be informed by Safety by Design principles.

The Commonwealth Government should build on work that is already underway and prioritise systems where significant harm is occurring, such as: family law, child support, immigration, and taxation.

Nonetheless, identifying and supporting abuse victims as well as preventing the incidence of economic abuse remains a significant policymaking challenge.¹⁶

¹² In November 2022, the NSW Parliament passed the *Crimes Legislation Amendment (Coercive Control) Act 2022* (the 'Act'). The Act was passed following the NSW Joint Select Committee on Coercive Control recommending a criminal offence of coercive control, and after detailed and public consultation on an exposure Draft Bill. The Act makes coercive control in current and former intimate partner relationships a criminal offence. The offence has not commenced yet – and will likely commence in June 2024. The Act also provides a definition of 'domestic abuse' for the *Crimes (Domestic and Personal Violence) Act 2007*. The definition will commence in February 2024. See further, NSW Government, 'Coercive control: Know the signs of abuse'; available at: <https://www.nsw.gov.au/family-and-relationships/coercive-control/the-law>. See *Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act 2023*. The amendments respond to a range of recommendations made by the Women's Safety and Justice Taskforce; <https://www.womenstaskforce.qld.gov.au/>.

¹³ McGorrry P and McMahon M, 'Prosecuting controlling or coercive behaviour in England and Wales: Media reports of a novel offence' (2019) 21(4) *Criminology & Criminal Justice* 566.

¹⁴ Breckenridge et al, *Understanding Economic and Financial Abuse in Intimate Partner Relationships* (Report, October 2020), 8-10.

¹⁵ Notable examples include the National Principles to Address Coercive Control in Family and Domestic Violence, the Working for Women Strategy, the Financial Services Regulatory Framework in Relation to Financial Abuse inquiry by the Parliamentary Joint Committee on Corporations and Financial Services, and the Rapid Review of Prevention Approaches.

¹⁶ There is an emerging international literature with various definitions and measures of economic abuse. Economic abuse refers to '[a] pattern of control, exploitation or sabotage of money, finances and economic resources which affects an individual's capacity to acquire, use and maintain economic resources and threatening their economic security and self-sufficiency'. Economic abuse commonly occurs alongside other forms of DFV, including physical, sexual, psychological and emotional abuse, as well as threats, intimidation and controlling behaviours. A recent evidence review conducted by Breckenridge et al identified common tactics used to perpetrate economic abuse, including the control of money within a relationship, failing to contribute to household expenses, appropriating one partner's income or assets, making one partner liable for joint debt and employment sabotage; see further: Breckenridge et al, *Understanding Economic and Financial Abuse in Intimate Partner Relationships* (Report, October 2020); available at: <https://www.commbank.com.au/articles/newsroom/2020/11/UNSW-financial-abuse.html>; Judy L. Postmus et al, 'Economic Abuse as an Invisible Form of Domestic Violence: A Multicountry Review' (2020) 21(2) *Trauma, Violence, & Abuse* 261, 265-277.

However, it is of note that the review did not identify the incidence of tax problems as a potential symptom of DFV or economic abuse perpetration. There is a relative dearth of literature at the intersection of tax problems and financial abuse; see further: Kayis-Kumar A, Lim Y, Noone J, Walpole M, Breckenridge J and Book L 'Identifying and supporting

Worryingly, existing tax laws compel the ATO to pursue victim-survivors for tax debts through payment plans, offsetting of future tax refunds, issuing Director Penalty Notices, engaging external debt collectors or initiating bankruptcy proceedings, inadvertently enabling and exacerbating the cycle of abuse.¹⁷

Each of these pathways are financially debilitating for victim-survivors.

The following recommendations stem from these recurring themes and are designed to offer practical and meaningful proposals for legislative reform to empower government agencies in responding to financial abuse:

Recommendation 1: Legislative reform overriding the general rule requiring the offsetting of tax refunds against outstanding tax liabilities in situations of financial hardship

Recommendation 2: Modernise serious hardship relief provisions by legislating for ATO discretion for tax relief for victim-survivors of economic abuse experiencing serious financial hardship

Recommendation 3: We recommend that the ATO/Treasury conduct a consultation on the design and operation of the existing regulatory regime as it impacts victim-survivors in Australia. Following this initial consultation, we recommend the co-creation of a best practice model for the adoption of US-inspired innocent spouse relief in the Australian context.

- **Disproportionately high tax compliance costs**

Described as “a godsend” by the former CEO of Financial Counselling Australia,¹⁸ our free tax and business advisory services enable the most disadvantaged to navigate a system that is almost impossible to navigate without professional representation.

However, demand for our service far outstrips supply, as shown in our national survey of the financial counselling sector, which found that 37% of financial counselling clients have an unmet need for professional tax advice. This amounts to around 80,000 people every year – primarily with long-term overdue income tax, GST and PAYG returns (91% of clients with unmet tax needs), and the unmet need for support with tax debt discussions (88% of clients with unmet tax needs).¹⁹ Notably, this

financially vulnerable women experiencing economic abuse: A grounded theory approach’ (2023) 21(2) *eJournal of Tax Research* 173-202.

¹⁷ Ann Kayis-Kumar, Christine Speidel and Leslie Book, ‘Squeezing blood from stones? A comparative analysis of tax relief for victim-survivors in Australia and the United States’ (2024) 39(2) *Australian Tax Forum* 191-220.

¹⁸ “It has been a godsend to have services such as the UNSW Tax & Business Advisory Clinic as a referral option for financial counsellors with small business clients. The clinic can help clients with preparing records, lodging tax records and negotiating payment arrangements with the ATO”: Ann Kayis-Kumar and Michael Walpole, ‘Throwing a financial lifeline to struggling microbusinesses’ (UNSW BusinessThink, 22 August 2023); available at: <https://www.businessthink.unsw.edu.au/articles/microbusinesses-tax-finance>.

¹⁹ “Almost all clients (with a tax concern) seen by the survey participants needed advice on lodging tax returns (93%) and assistance with tax debt discussions (88%). A small proportion needed assistance lodging an objection to an ATO decision (18%), with even fewer needing assistance in litigation against the ATO (7%) or an audit conducted by the ATO (7%).”: Ann Kayis-Kumar, Jack Noone, Youngdeok Lim, Michael Walpole and Gordon Mackenzie, ‘Tax Accounting for Financial Wellbeing: Quantifying the Unmet need for Pro Bono Tax Advice’ (2022) 51(3) *Australian Tax Review* 228-257, 245. Awarded the Cedric Sandford Medal for Best Paper at the 14th International ATAX Tax Administration Conference (2021).

research was conducted before the pandemic and subsequent cost of living crisis. There are likely more people with unmet tax needs given the current economic climate.

The below Financial Iceberg Illusion is a useful illustration of the drivers of financial hardship. It recognises that the most prominent surface level triggers exhibiting financial hardship are over indebtedness, late payments of bills, arrears backing up for months, non-response to communications from creditors, relationship breakdown, often leaving women and children homeless and penniless.²⁰



Source: Voola, 2019

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

- **Barriers to accessing Centrelink support**

A related issue that our frontline team is regularly faced with is that people living below the poverty line and reliant entirely on Centrelink for income are still required to have an annual touchpoint with the ATO by lodging a non-lodgment advice (also known as a 'return not necessary').

This becomes problematic when they do not lodge a non-lodgment advice, as being up-to-date on their income tax returns is a precondition to receiving Centrelink support. Our frontline team regularly observe this to be an overly burdensome requirement for people living below the poverty line – who are often struggling with other challenges in their lives – including an inability to afford food and medical care for themselves or their families. Such clients are often focussed on the immediate physical requirements of themselves and dependent children – how will they support

²⁰ Archana Voola, 'Tracking the Financial Icebergs in Australia' (Power to Persuade blog, 12 August 2019); available at: <https://www.powertopersuade.org.au/blog/tracking-the-financial-icebergs-in-australia/12/8/2019>.

themselves, where will they sleep, what will they eat, where will the children go to school, how will they obtain work, etc. The capacity of such clients to engage with other tax and legal requirements and obligations is often extremely compromised given the other complex and pressing challenges they are navigating.

This is often exacerbated by an inability to obtain adequate child support.²¹ Pioneering research led by Cook et al makes many compelling recommendations to alleviate the weaponisation of the child support system. We fully support the recommendations contained in this report, particularly Recommendations 3 and 4 which are “Move all child support collections back into the Australian Tax Office” and “Make all payment debts owed to and enforced by the Commonwealth”, respectively.

If you have any questions about this submission, please contact A/Professor Ann Kayis-Kumar at [REDACTED].

Yours faithfully,

UNSW Tax and Business Advisory Clinic

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²¹ See: Kay Cook, Adrienne Byrt, Terese Edwards and Ashlea Coen, ‘Opening the black box of child support: Shining a light on how financial abuse is perpetrated’ <https://fixchildsupport.com.au/wp-content/uploads/2024/10/Opening-the-Black-Box-of-Child-Support-2024-digital-version_compressed.pdf>.