

The Senate

Economics
Legislation Committee

Working Holiday Maker Reform package:

Income Tax Rates Amendment (Working
Holiday Maker Reform) Bill 2016
[Provisions]

Passenger Movement Charge Amendment Bill
2016 [Provisions]

Superannuation (Departing Australia
Superannuation Payments Tax) Amendment
Bill 2016 [Provisions]

Treasury Laws Amendment (Working Holiday
Maker Reform) Bill 2016 [Provisions]

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Chapter 1

Background and overview of the bills

1.1 On 13 October 2016, the Senate referred the provisions of four bills which form part of the government's working holiday maker reform package ('the reform package') to the Senate Economics Legislation Committee for inquiry and report by 7 November 2016.¹ The four bills in the reform package are the:

- Income Tax Rates Amendment (Working Holiday Maker Reform) Bill 2016;
- Treasury Laws Amendment (Working Holiday Maker Reform Bill) 2016;
- Superannuation (Departing Australia Superannuation Payments Tax) Amendment Bill 2016; and
- Passenger Movement Charge Amendment Bill 2016.

1.2 There are a number of measures in the reform package relating to working holiday makers (WHMs)—that is, individuals visiting Australia on Working Holiday visas (Subclass 417) and Work and Holiday visas (Subclass 462). These measures include:

- changes to the income tax rates that apply to WHMs—whereas WHMs can currently access the \$18,200 tax free threshold if they are residents for tax purposes, the reform package will apply a 19 per cent income tax rate to taxable income on amounts up to \$37,000 for all WHMs, with ordinary tax rates for taxable income exceeding this amount;
- an increase to the rate of the departing Australia superannuation payments (DASP) tax to 95 per cent for WHMs;
- protections for WHMs from unfair employment arrangements—including allowing the Commissioner of Taxation (Commissioner) to disclose information that is relevant to ensuring an entity's compliance with the *Fair Work Act 2009* to the Fair Work Ombudsman;

1 Two parts of the reform package will be progressed through the next round of Appropriation Bills following Mid-Year Economic and Fiscal Outlook (MYEFO) 2016–17: a \$10 million Tourism Australia advertising campaign and \$10 million for the Fair Work Ombudsman and the Australian Taxation Office (ATO) to 'establish the employer register and assist with ongoing compliance initiatives and to address workplace exploitation of working holiday makers'. A measure to provide greater flexibility to employers of working holiday makers by allowing working holiday makers to stay with one employer for up to 12 months providing the second six months is worked in a different location, is being progressed separately by the Department of Immigration and Border Protection. This measure does not have a fiscal impact. Explanatory Memorandum, *Income Tax Rates Amendment (working Holiday Maker Reform) Bill 2016 [and related bills]*, (hereafter 'Explanatory Memorandum'), p. 7; Media release, 'Better working holiday maker tax arrangements', 27 September 2016, <http://sjm.ministers.treasury.gov.au/media-release/104-2016/>, accessed 24 October 2016.

- a requirement for employers of WHMs to register with the Commissioner, which will allow such employers to withhold tax at income tax rates applying to WHMs;
- a requirement for the Commissioner to give the Treasurer, for presentation to the Parliament, a report on WHMs;
- a reduction in the visa application charges for WHMs; and
- an increase to the passenger movement charge (PMC) from \$55 to \$60 (which will affect all passengers departing Australia, not just WHMs).

Conduct of the inquiry

1.3 The committee advertised the inquiry on its website and social media, and wrote directly to a range of individuals and organisations inviting written submissions by 21 October 2016. The committee received 56 submissions, which are listed at Appendix 1.

1.4 The committee held three public hearings: Canberra on 26 October 2016, Cairns on 31 October 2016, and Launceston on 2 November 2016. The names of witnesses who appeared at the hearing are at Appendix 2.

1.5 The committee thanks all participants in the inquiry.

Background

Working holiday maker program and taxation of WHMs

1.6 The WHM program commenced in 1975, and aims to foster tourism and cultural exchange between Australia and partner countries. The program comprises two visa classes: Subclass 417 (Working Holiday) and Subclass 462 (Work and Holiday). It allows people aged between 18 and 30 years of age from 38 partner countries to work in Australia during an extended holiday of up to 12 months (Subclass 417 visa holders can apply for a second year visa).²

1.7 The income tax that applies to WHMs depends on their residency status for taxation purposes (which, as explained further below, WHMs self-assess). Australia has long had different rates of income tax for individuals who are residents and non-residents for tax purposes. The tax-free threshold was removed for non-residents in 1982, and non-residents pay 32.5 per cent on all earnings up to \$80,000 (the first income tax bracket for non-residents is therefore \$0–\$80,000). In contrast, residents for tax purposes pay nil tax on income up to \$18,200 (the tax-free threshold), and 19 per cent for earnings between \$18,201 and \$37,000. For income over \$37,000, tax rates for both residents and non-residents are the same and increase at the same rate (see Table 1, below).

2 Explanatory Memorandum, p. 41; Joint Standing Committee on Migration, 'Seasonal change: Inquiry into the Seasonal Worker Programme' (May 2016), p. 45.

Table 1: Comparison of current tax rates for residents and non-residents³

Taxable income	Residents tax rate	Non-residents tax rate
\$0 – \$18,200	Nil	32.5 per cent
\$18,201 – \$37,000	19 per cent	
\$37,001 – \$80,000 ⁴	32.5 per cent	
\$80,001 – \$180,000	37 per cent	37 per cent
\$180,001 and over	45 per cent	45 per cent

1.8 Currently, WHMs who satisfy the tax residency criteria receive the benefit of the \$18,200 tax-free threshold.⁵ WHMs who are non-residents for tax purposes are taxed at 32.5 per cent from their first dollar of income (and, consistent with marginal tax rates for resident taxpayers, 37 per cent for income over \$80,000 and 45 per cent for income over \$180,000).⁶

Residency status for tax purposes

1.9 WHMs self-assess their residency status for tax purposes.⁷ The Australian Taxation Office (ATO) provides information on residency tests on its website and how these tests apply in common situations. For example, a person visiting Australia for more than six months who for most of that time lives in the same place, and who establishes ties in the local community, will generally be considered an Australian resident for tax purposes. However, a person visiting for more than six months who

3 The table does not include the Medicare Levy of 2 per cent that residents for tax purposes pay (non-residents are not required to pay the levy), or the Temporary Budget Repair Levy of 2 per cent for incomes over \$180,000.

4 The Treasury Laws Amendment (Income Tax Relief) Bill 2016, currently before the Parliament, proposes increasing the upper limit of the third bracket to \$87,000. The lower limit of the fourth bracket would increase to \$87,001. The bill would also increase the upper limit of the first income tax bracket for non-residents to \$87,000.

5 If a working holiday maker's income is \$37,000 or less, they will also receive the full benefit of the low income tax offset of \$445. This means that, in effect, working holiday makers do not pay tax until their income exceeds \$20,542. The low income tax offset reduces by 1.5 cents for every dollar over \$37,000, and cuts out entirely if income is \$66,667 or above. Explanatory Memorandum, p. 42; Australian Tax Office, webpage, 'Low income earners', <https://www.ato.gov.au/individuals/income-and-deductions/offsets-and-rebates/low-income-earners/>, accessed 17 October 2016.

6 Explanatory Memorandum, p. 10.

7 Explanatory Memorandum, p. 42.

spends most of that time travelling and working in various locations in Australia will generally be considered a foreign resident for tax purposes.⁸

1.10 Determining tax residency is not always straight-forward, and the ATO has identified that many WHMs are incorrectly assessing themselves as residents for tax purposes (and thereby avoiding the higher income tax rates that apply to WHMs who are non-resident for tax purposes). The Explanatory Memorandum explains that recent findings by the Administrative Appeals Tribunal (AAT) are of particular relevance in this regard:

In particular, many WHMs have been relying on their presence in Australia for six months as sufficient to be an Australian tax resident. Administrative Appeals Tribunal (AAT) decisions that were handed down in 2015 clarified the law. The AAT cases confirmed that applying the '183 day' test alone was not sufficient, and that an assessment of the full facts and circumstances must be applied to ascertain residency status.

The AAT decisions mean that most transient WHMs do not satisfy the tax residency tests and should be taxed as non-residents. However, WHMs that stay in one place and establish ties with their local community may be considered tax residents under the existing law, notwithstanding the fact that holidaying is the primary purpose for their visit.⁹

1.11 Appearing before the committee, a representative of the ATO provided the following insight into the complexity of the residency question for WHMs, and noted there was some confusion on the matter:

We need to administer the law around residency for working holiday-makers in the sense that we believe that a number of working holiday-makers are self-assessing themselves as residents when they are non-residents. And to support this we are aware of tax agents in the community who specialise in backpacker tax returns advertising, 'As long as you are here for more than six months we can get all your tax back.' We have some recent AAT cases, some tribunal cases, which show that if someone is a transient working holiday-maker—they are moving from farm to farm, for example, with different employers and moving around—then they are more likely to be non-residents. In fact, the cases concluded that people were non-residents regardless of the length of time that they were here in Australia. We do have some confusion out in the community on this point.¹⁰

8 Australian Taxation Office, webpage, 'Work out your tax residency', <https://www.ato.gov.au/Individuals/International-tax-for-individuals/Work-out-your-tax-residency/>, accessed 18 October 2016.

9 Explanatory Memorandum, p. 42.

10 Mr Michael Ingersoll, Assistant Commissioner, Individuals, Australian Taxation Office, *Proof Committee Hansard*, 26 October 2016, p. 33.

1.12 As the law currently stands, WHMs who are travelling and working in various locations around Australia would generally be considered non-residents for tax purposes, and as such subject to 32.5 per cent tax for income earned in Australia. While many WHMs have been incorrectly self-assessing as residents for tax purposes, the ATO confirmed to the committee that if the bill was not passed it would apply the current law:

We consider that most working holiday makers are non-residents due to their pattern of working and holidaying while in Australia.

We will help working holiday makers understand Australia's self-assessment tax system, so that they correctly advise their employers of their residency status and have correct tax withheld. We will also work to ensure that working holiday makers correctly prepare their tax returns. This will include working with tax agents so that their advice is consistent with the ATO view, as confirmed by recent Tribunal decisions. It will also include some checking of returns.¹¹

WHMs as a source of labour

1.13 For WHM visa holders, work must not be the main purpose of their visit to Australia.¹² However, as the Explanatory Memorandum explains:

While not the original intention, the WHM program has been acknowledged as being a strong contributor of supplementary labour, particularly to the tourism and agriculture industries which are heavily reliant on seasonal labour.¹³

1.14 In 2015–16, 214,547 working holiday visas were granted (195,673 Subclass 417 visas, and 18,910 Subclass 462 visas), down from a peak of 258,248 visas granted in 2012–13.¹⁴

1.15 As explained in the next chapter, the importance of WHMs as a labour source for agricultural and tourism industries has led to some concerns that imposing higher rates of taxation on WHMs would lead to a decline in WHMs visiting and working in Australia.¹⁵

2015–16 Budget announcement and the government's subsequent review

1.16 The 2015–16 Budget announced a measure to treat all WHMs as non-residents for tax purposes, thus taxing them at 32.5 per cent from the first dollar of income like other non-resident taxpayers. As such, WHMs would no longer be able to

11 Australian Taxation Office, *Submission 54*, p. 1.

12 Explanatory Memorandum, p. 41.

13 Explanatory Memorandum, p. 43.

14 Explanatory Memorandum, p. 44.

15 Explanatory Memorandum, p. 45.

claim residency for tax purposes and access the tax-free threshold of \$18,200. It was estimated that the measure would result in an increase to revenue of \$540 million over the then forward estimates period (2015–16 to 2018–19).

1.17 As the Treasurer noted in his second reading speech for the current reform package bills, the proposed measure led to concerns being raised about its possible effect on 'our global competitiveness as a backpacker destination'.¹⁶ In response to these concerns, on 17 May 2016 the Minister for Small Business and Assistant Treasurer announced that the government would undertake a review of the broad range of issues affecting the supply and taxation of WHMs. The government also announced that it would defer the 2015–16 Budget measure by six months, to start from 1 January 2017.¹⁷

1.18 The Deputy Prime Minister and Minister for Agriculture and Water Resources, the Hon Barnaby Joyce MP and the Assistant Minister to the Deputy Prime Minister, the Hon Luke Hartsuyker MP, announced the commencement of the government's review of the WHM visa program on 15 August 2016.¹⁸ As part of government's review of the WHM visa program, the Department of Agriculture and Water Resources (DAWR) invited and received more than 1700 written submissions.¹⁹ Deloitte Touche Tohmatsu (Deloitte) was appointed to conduct an independent stakeholder engagement process as part of the government's review of the WHM program.²⁰

1.19 Deloitte's stakeholder engagement process consisted of two main streams:

- workshops in all states and territories, with industry groups, welfare bodies, unions and labour hire companies invited to participate; and
- the abovementioned written submissions process run by DAWR, which passed on all submissions to Deloitte for inclusion in its review.²¹

16 The Hon Scott Morrison, Treasurer, second reading speech, *House of Representatives Proof Hansard*, 12 October 2016, p. 5.

17 Explanatory Memorandum, p. 6.

18 Media release, 'Working holiday maker visa review no underway', 15 August 2016, <http://minister.agriculture.gov.au/joyce/Pages/Media-Releases/working-holiday-maker-visa-review.aspx>.

19 Department of Agriculture and Water Resources, 'Submissions received', <http://www.agriculture.gov.au/ag-farm-food/working-holiday-maker-review/submissions>, accessed 24 October 2016.

20 Department of Agriculture and Water Resources, 'Working holiday maker visa review', <http://www.agriculture.gov.au/ag-farm-food/working-holiday-maker-review>, accessed 24 October 2016.

21 Deloitte, 'Independent stakeholder engagement on the Working Holiday Maker Visa review', September 2016, p. 1.

1.20 A number of central themes and arguments emerged in Deloitte's stakeholder engagement process, including:

- the importance of WHMs as a labour source in both the agriculture and tourism sectors, particularly in seasonal work in those sectors;
- the role of WHMs in increasing tourism in Australia;
- Australia's competitiveness as a destination for WHMs would be damaged by the proposed tax increase; and
- the proposed tax increase would create further incentives for workers to enter into the black/cash-in-hand economy and exacerbate the current exploitation of temporary visa holders.²²

1.21 The Treasurer advised in his second reading speech that the government had listened to stakeholders who had raised concerns.²³ The revised reform package was announced by the Treasurer on 27 September 2016.²⁴ According to the Treasurer, the revised package:

...acknowledges the importance of ensuring the integrity of the tax base in relation to what is an important area of growth in the economy, but also that this is done in an appropriate way that addresses the concerns of stakeholders that have arisen.²⁵

1.22 The primary difference between the 2015–16 Budget proposal and the reform package is that the latter would apply a 19 per cent tax rate on the earnings of WHMs up to \$37,000, as opposed to a 32.5 per cent tax rate. The reform package also reduces the cost of WHM visas by \$50 to \$390.²⁶ These and other measures in the reform package are summarised below.

Overview of the reform package

Tax rate changes

1.23 The Income Tax Rates Amendment (Working Holiday Maker Reform) Bill 2016 will set the tax rate that applies to WHMs at 19 per cent from their first

22 Deloitte, 'Independent stakeholder engagement on the Working Holiday Maker Visa review', September 2016, pp. 2–7.

23 The Hon Scott Morrison, Treasurer, second reading speech, *House of Representatives Proof Hansard*, 12 October 2016, p. 5.

24 Media release, 'Better working holiday maker tax arrangements', 27 September 2016, <http://sjm.ministers.treasury.gov.au/media-release/104-2016/>, accessed 24 October 2016.

25 The Hon Scott Morrison, Treasurer, second reading speech, *House of Representatives Proof Hansard*, 12 October 2016, p. 5.

26 Media release, 'Better working holiday maker tax arrangements', 27 September 2016, <http://sjm.ministers.treasury.gov.au/media-release/104-2016/>, accessed 24 October 2016.

dollar of income up to \$37,000. Annual income above this amount will be subject to ordinary marginal income tax rates. The new tax rate will apply from 1 January 2017.

1.24 DAWR explained the relevance of the abovementioned AAT decisions on the residency status of WHMs to the current package:

The Administrative Appeals Tribunal has affirmed the existing income tax rate for most WHMs is 32.5% (AAT 2015a-c). Despite this, it is clear that many WHMs have been, and continue to, declare themselves as 'residents' for tax purposes, and do not pay income tax on earnings below the tax free threshold.

The legislation before the committee is to change the law to an alternative tax rate of 19% for WHMs on income up to \$37,000, with standard marginal rates thereafter. Without change the existing law would remain.²⁷

Changes to the departing Australia superannuation payments (DASP) tax

1.25 When a temporary resident who has been working in Australia departs the country, they are able to claim their superannuation as a departing Australia superannuation payment (DASP).²⁸ As the Explanatory Memorandum explains, the DASP tax applies to the superannuation balance paid to eligible temporary visa holders (including Subclass 417 and Subclass 462 visa holders) where the individual has left Australia and their visa has expired or is cancelled.²⁹ The DASP tax is currently 38 per cent for the element of the payment taxed in the fund, and 47 per cent for untaxed elements.³⁰

1.26 The Superannuation (Departing Australia Superannuation Payments) Bill 2016 increases the rate of the DASP tax for WHMs to 95 per cent for those components of the payment that are currently subject to the tax. The change will take effect from 1 July 2017.³¹ The changes to the DASP tax rate only apply to WHMs.

Registration of WHM employers, protection of WHMs and periodic reporting by the Taxation Commissioner

1.27 The Treasury Laws Amendment (Working Holiday Reform) Bill 2016 establishes a framework requiring employers of WHMs to register with the

27 Department of Agriculture and Water Resources, *Submission 23*, p. 3.

28 Australian Taxation Office, webpage, 'Super for temporary residents departing Australia', <https://www.ato.gov.au/individuals/international-tax-for-individuals/in-detail/super/super-information-for-temporary-residents-departing-australia/>, accessed 2 November 2016.

29 Explanatory Memorandum, p. 10.

30 Explanatory Memorandum, p. 48. Any tax-free component of superannuation, which is generally made up of after-tax contributions, is taxed at 0 per cent when claimed as a DASP. Explanatory Memorandum, p. 11.

31 Explanatory Memorandum, pp. 13, 30.

Commissioner of Taxation. Registered employers will be able to apply reduced rates of PAYG Withholding to withholding payments made to WHMs.³²

1.28 If an employer registers as an employer of WHMs, the amount the employer is required to withhold from their withholding payments to WHM employees would be based on the rates of income tax that apply to income derived by WHMs (including the 19 per cent rate for income up to \$37,000). If an employer is not registered as a WHM employer with the Commissioner, then they would be required to withhold from their withholding payments to WHM employees the higher rate of income tax that applies to non-residents (32.5 per cent on all income up to \$80,000).³³

1.29 A WHM's income tax rate would not depend on whether their employer is registered or not. As the Explanatory Memorandum explains, following the assessment of a WHM's taxable income on lodgement of their tax return, the Commissioner refunds any excess PAYG Withholding amount—'that is, any amount that is not required to cover the working holiday maker's income tax liability'.³⁴ This means that if the higher PAYG Withholding rate has been applied by a non-registered employer, the WHM will be unable to access any excess PAYG Withholding amount until their income has been assessed on lodgement of their tax return. The Explanatory Memorandum states:

Employers that are registered as registered working holiday maker employers are able to apply reduced PAYG Withholding rates to payments made to their working holiday maker employees compared to the rates that would apply if the employer was not registered. This concessional treatment is designed to provide additional incentives for an employer to register as a registered working holiday maker employer, as access to this withholding treatment may result in them being considered as more attractive employers by working holiday makers.³⁵

1.30 In registering as an employer of WHMs, an entity will also be required to make a declaration to the Commissioner, stating that:

- if the entity is carrying on a business, the entity has a genuine business requirement to employ one or more WHMs (such as a labour shortage);
- the entity agrees to comply with the requirements of the *Fair Work Act 2009* in relation to its employment of any individual who is a WHM; and

32 Explanatory Memorandum, p. 13.

33 PAYG Withholding schedules are determined by the Commissioner. It is expected that the Commissioner will exercise his power to make PAYG Withholding schedules to provide different treatment based on whether an employer of a WHM is registered as a WHM employer. Explanatory Memorandum, p. 24.

34 Explanatory Memorandum, p. 24.

35 Explanatory Memorandum, p. 25.

- the entity agrees to check that any individual it employs as a WHM holds a visa that qualifies that person to be a WHM.³⁶

1.31 In addition, the Treasury Laws Amendment (Working Holiday Reform) Bill 2016 will provide greater protection for WHMs by allowing for:

- the Commissioner to cancel the registration of an employer under certain circumstances;
- the date on which an entity's registration or cancellation of registration takes effect to be made publically available on the Australian Business Register, making it easy for WHMs and others to check the registration status of a potential employer³⁷; and
- the Commissioner to disclose information to the Fair Work Ombudsman relevant to ensuring an entity's compliance with the *Fair Work Act 2009*.³⁸

1.32 As soon as practicable after 30 June each year, the Commissioner will be required to provide an annual report to the Minister regarding the taxation of WHMs, including statistics derived from the employer register.³⁹

Visa and passenger movement charge changes

1.33 The Treasury Laws Amendment (Working Holiday Reform) Bill 2016 and the Passenger Movement Charge Amendment Bill 2016 make the following changes to visa and passenger movement charges:

- a \$50 reduction in the visa application charge for Subclass 417 (Working Holiday) visas and Subclass 462 (Work and Holiday) visas from \$440 to \$390; and
- a \$5 increase in the PMC from \$55 to \$60.

Financial impact

1.34 As noted above, the original proposal to change the tax rates that apply to WHMs, as announced in the 2015–16 Budget, was estimated to increase revenue by \$540 million over the then forward estimates period (2015–16 to 2018–19). The deferral of the package for six months until 1 January 2017 had an estimated revenue cost of \$40 million.⁴⁰

36 Explanatory Memorandum, p. 22.

37 Explanatory Memorandum, p. 23.

38 Explanatory Memorandum, p. 13.

39 Explanatory Memorandum, p. 16.

40 Explanatory Memorandum, p. 6.

1.35 The cost to the Budget of the changes in the package to the income tax rate that applies to WHMs, as compared to the rate proposed in the 2015–16 Budget, is offset by increases to the DASP tax for WHMs and to the PMC for all passengers departing Australia.⁴¹

Structure of this report

1.36 The next three chapters in this report consider the views expressed by inquiry participants on the various aspects of the reform package.

- Chapter 2 considers the importance of WHMs to the Australian economy—both as a source of tourism dollars and a source of seasonal and temporary labour, particularly in the agricultural and tourism industries.
- Chapter 3 addresses the establishment of a register for employers of WHMs, and considers related issues of employer compliance.
- Chapter 4 examines the evidence received regarding the proposed increase in the PMC.

41 Explanatory Memorandum, pp. 6–7.

Chapter 2

Taxation of working holiday makers

2.1 An underlying theme in the evidence received by the committee was the contribution that WHMs make to the Australian economy, both as an important market segment for Australia's tourism sector, and as a source of seasonal and temporary labour. This chapter very briefly highlights the economic contribution of WHMs, drawing on evidence presented to the committee in this regard.

2.2 In turn, this chapter assesses measures in the reform package relating to the taxation of WHMs, including the application of a 19 per cent tax on WHM income up to \$37,000 and the increase in the DASP tax for WHMs to 95 per cent. This chapter also summarises evidence received that assessed the likely impact of the reform package as a whole (including measures not in the bills) on the WHM market in Australia.

2.3 Finally, this chapter considers the proposals made by some witnesses for a review of the impact of the reform package at a suitable time after its implementation.

Contribution of WHMs to the Australian economy

2.4 WHMs make a significant contribution to the Australian economy, both as tourists and as a source of labour. With respect to Australia's visitor economy, WHMs constitute an important market segment. As set out in Tourism Australia's submission, in the last financial year approximately 321,000 WHMs visited Australia and contributed almost \$3.3 billion in tourist spending in Australia. Tourism Australia also noted that WHMs 'tend to stay longer, spend more and disperse more widely throughout the country than most other target segments'. Many WHMs will also return to Australia later in life, including with their families or for business. Tourism Australia also observed that there is strong competition for this part of the tourist market from countries such as New Zealand, Canada and the United Kingdom.¹

2.5 In its submission, the Australian Chamber – Tourism summarised the various ways in which WHMs contribute to the Australian economy:

WHMs make several important contributions to our economy and particularly to regional economies. They are tourists who earn Australia export income, they stimulate regional economies with consumption spending and they provide labour in areas of workforce shortage.²

1 Tourism Australia, *Submission 51*, pp. 1–2.

2 Australian Chamber – Tourism, *Submission 19*, p. 7.

2.6 As a source of labour, WHMs are particularly important in certain sectors, such in the agricultural, horticultural, fishing, tourism and hospitality industries.³

2.7 As Professor Stephen Howes and Mr Henry Sherrell note in their joint submission, WHMs are in fact the single largest source of horticultural labour in Australia.⁴ Ms Rachel Mackenzie, Chief Advocate at Growcom, the peak industry body for Queensland's \$2.5 billion horticulture industry, explained that as much as 60 per cent of the horticultural workforce can, at certain times, be made up of WHMs. Ms Mackenzie explained:

The role that they play would be hard to replicate from another labour supply because the nature of the work is seasonal and highly sporadic, with very intense bursts and then very quiet periods.⁵

2.8 In public hearings in Cairns and Launceston the committee received a large amount of evidence from employers of WHMs emphasising the critical importance of WHMs as a source of labour. In addition to horticultural and agricultural businesses and representative bodies, the committee also received evidence from employers of WHMs in the hospitality, accommodation and broader tourism sectors. The consistent message to the committee was that these businesses very much rely on WHMs, particularly in rural and regional areas.

2.9 The extent to which witnesses supported or opposed the reform package depended in large measure on whether they considered it would promote or damage Australia's competitiveness as a destination for WHMs. The next part of this report summarises the views of witnesses with regard to the changes to the tax treatment of WHMs in the reform package. Views on other aspects of the reform package, such as the creation of an employer register and the changes to the PMC, are discussed in subsequent chapters.

Proposed 19 per cent income tax for WHMs

2.10 As explained in the previous chapter, the reform package will legislate a 19 per cent tax rate for WHMs, which will apply from the first dollar of income earned up to \$37,000. Income above \$37,000 will be subject to ordinary marginal income tax rates. The new tax rate will apply from 1 January 2017.

3 WA Farmers, *Submission 44*, p. 3.

4 Professor Stephen Howes and Mr Henry Sherrell, *Submission 27*, p. 2. Professor Howes and Mr Sherrell contend that this reliance on WHMs for low-skilled labour is problematic and argue that broader policy change is required with regard to Australia's approach to low-skilled labour migration programs.

5 Ms Rachel Mackenzie, Chief Advocate, Growcom, *Proof Committee Hansard*, 31 October 2016, p. 24.

The 19 per cent tax rate and Australia's competitiveness as a WHM destination

2.11 The committee received evidence from the Department of Agriculture and Water Resources (DAWR) and the Treasury indicating that Australia will remain internationally competitive in attracting WHMs with a 19 per cent tax rate. DAWR explained that the Deloitte stakeholder review had shown that 19 per cent was the highest tax rate that could be imposed before Australia's WHM program became uncompetitive with New Zealand and Canada. It added that a rate of 15 to 19 per cent would:

...have a smaller impact upon backpacker decisions and therefore any decline in number would be minimal—particularly as this would still place Australia's after tax minimum wage ahead of competitors.⁶

2.12 DAWR also provided the committee with evidence showing that a 19 per cent WHM tax rate 'makes Australia competitive with Canada, New Zealand and the United Kingdom in terms of after-tax pay, and accounts for cost of living'.⁷

2.13 Similarly, Treasury informed the committee that it had undertaken some analysis showing that at a 19 per cent tax rate, Australia was competitive with other WHM destinations:

At the 19 per cent rate, we have undertaken some work that shows that, with that rate, Australia is competitive with our competitors. There is more than just the tax rate that goes into whether Australia is competitive for working holiday-makers. It also goes to our minimum wage, which is higher than other countries'. We have also taken into account the exchange rates and cost of living. After all of those have been taken into account in comparison with Canada, New Zealand and the United Kingdom, we are competitive in relation to the net income a working holiday-maker would earn in order to make around \$13,000, which is the average income earned by a working holiday-maker.⁸

2.14 Evidence received from Growcom supported the contention that even with a tax rate of 19 per cent, WHMs would generally be better off in Australia than in other countries competing for WHMs, such as Canada and New Zealand. At the 19 per cent tax rate, a WHM on minimum wage would receive an after-tax hourly wage of \$14.34, compared to \$9.41 in Canada and \$13.65 in New Zealand.⁹

6 Department of Agriculture and Water Resources, *Submission 23*, p. 5.

7 Department of Agriculture and Water Resources, *Submission 23*, p. 3.

8 Mrs Marisa Purvis-Smith, Division Head, Individuals and Indirect Tax Division, Treasury, *Proof Committee Hansard*, 26 October 2016, p. 35.

9 Growcom, *Submission 32 (Attachment 1)*, p. 3. Growcom acknowledged that a direct comparison was difficult to make, given a range of factors such as casual loadings, offsets for wages such as accommodation, varying cost of living expenses, and so on. Ms Rachel Mackenzie, Chief Advocate, Growcom, *Proof Committee Hansard*, 31 October 2016, p. 30.

Support for the 19 per cent tax rate and the need for certainty

2.15 The majority of participants in this inquiry welcomed the government's decision to move away from the 32.5 per cent tax rate proposed in the 2015–16 Budget, and indicated that the 19 per cent rate represented a good compromise position.

2.16 For example, KPMG suggested that, on the one hand, 'classifying all working holiday makers as residents and thus entitled to a tax-free threshold would be overly generous and wrong based on general tax principles'. On the other hand, it suggested the original proposal of a 32.5 per cent tax rate from the first dollar of income was 'somewhat draconian and not internationally competitive'. On this basis, KPMG submitted that the 19 per cent rate on income up to \$37,000 was a 'reasonable compromise', and that 'linking the tax treatment to certain types of visa seems administratively attractive and simple'.¹⁰

2.17 The Australian Hotels Association advised that:

Coupled with the measures aimed at increasing working holidaymaker flexibility and supply, we can support the 19 per cent tax rate. We also note that in comparison to other destinations, such as New Zealand and Canada, Australia has an award wages system rather than just a minimum wage. This means that the higher Australian award wage rates structure makes us competitive based on take-home pay after working holidaymakers have paid that tax rate of 19 per cent.¹¹

2.18 A number of submitters suggested that while the removal of access to the tax-free threshold would still have a negative impact on the numbers of WHMs, the current proposal of a 19 per cent tax nonetheless represented a significant improvement from the 2015–16 Budget proposal. For example, Australian Chamber – Tourism submitted that it:

...remains of the view that removing the tax-free-threshold for the vast majority of working holiday makers will constrict labour supply for tourism businesses. It will also have a net negative impact on the economy, particularly regional economies, as taxation is substituted for direct spending in local businesses. This negative impact remains even with the compromise 19 per cent rate. However, as the Government has made revenue targets the clear bottom-line objective, Australian Chamber – Tourism supports the 19 per cent rate combined with measures to increase demand (wider eligibility and promotion).¹²

10 KPMG, *Submission 7*, pp. 1–2.

11 Mr Stephen Ferguson, National CEO, Australian Hotels Association, *Proof Committee Hansard*, 2 November 2016, p. 33.

12 Australian Chamber – Tourism, *Submission 19*, p. 4.

2.19 Australian Chamber – Tourism also advised that while it would prefer no change to the pre-2015 Budget treatment of WHMs, it recognised the 'that the Government has a challenging budget position and supports the need for action on the deficit'.¹³

2.20 Noting the current confusion regarding the tax treatment of WHMs, Chartered Accountants Australia and New Zealand (CAANZ) indicated that it supported the clarification of the income tax rate that applies to WHMs.¹⁴

2.21 WA Farmers also expressed support for the compromise approach of a 19 per cent income tax, suggesting the approach would be 'acceptable to the backpacker and the employer'.¹⁵

2.22 Employers of WHMs and peak industry bodies emphasised that, at this stage, it was critical to provide certainty to employers and potential WHMs, and the passage of the 19 per cent tax rate would achieve this. For example, Apple and Pear Australia Ltd (APAL) submitted that it:

...welcomed the revision of the proposed tax rate for backpackers to 19 per cent as an improvement on [the] 32.5 per cent initially proposed by the Australian Government. We have concerns that this rate will impact on backpacker numbers, and would welcome any further consideration by the committee and Parliament of a lower rate; however, the most important outcome for our industry continues to be that the reform is concluded by the end of this sitting year to give certainty to growers before the January 1 commencement date of the tax.¹⁶

2.23 The Australian Banana Growers' Council Inc. (ABGC) emphasised the importance of WHMs to banana farm labour, noting that previous research had shown that 59 per cent of workers on banana farms are WHMs. It submitted that 'any policy determination that reduces access to backpacker labour has serious consequences for the banana industry'.¹⁷ The Council added that in this sense the bill represented an improvement from the original proposal:

Consequently, ABGC submits that the Bill before Parliament to apply a 19% income tax rate to working holiday makers' taxable income is far more conducive to industry growth, productivity and industry development than the previous Government proposal or a tax of 32.5 per cent on every dollar earned. The proposed Bill would therefore limit the flow-on impacts and socio-economic consequences of the earlier tax proposal.¹⁸

13 Australian Chamber – Tourism, *Submission 19*, p. 8.

14 Chartered Accountants Australia and New Zealand, *Submission 31*, p. 1.

15 Cruise Lines International Association Australasia, *Submission 46*, p. 6.

16 Apple and Pear Australia Limited, *Submission 12*, p. 3.

17 Australian Banana Growers' Council, *Submission 1*, p. 1.

18 Australian Banana Growers' Council, *Submission 1*, p. 1.

2.24 A range of other horticultural producers and bodies, such as Summerfruit Australia Limited and Citrus Australia – SA Region, also urged the speedy passage of the bills and implementation of the 19 per cent tax rate in order to remove uncertainty for the horticultural sector.¹⁹

2.25 Likewise, the South Australian Wine Industry Association (SAWIA) stressed the need for certainty, and expressed concern about any delay in implementing the 'workable, permanent solution' contained in the reform package.²⁰

2.26 AUSVEG indicated that it had some concerns about the proposed 19 per cent tax rate. However, it submitted that in addition to being an improvement over the originally proposed 32.5 per cent rate, 'the most important outcome for our industry continues to be that the reform is concluded by the end of this sitting year to give certainty to growers before the January 1 commencement date of the tax'.²¹ It further emphasised the need for:

...a quick resolution to any continuing negotiations over the backpacker tax and other measures which have been linked to the tax. A quick resolution would also end the protracted uncertainty that has been allowed to build around this tax measures. It is vital that this uncertainty be brought to an end before it causes further damage to our industry.²²

2.27 The Australian Dairy Industry Council also suggested the 19 per cent tax rate represented a 'suitable compromise' and urged that its implementation not be delayed. It submitted:

A 19% tax rate leaves Australian backpackers at a comparative advantage to other countries such as Canada and New Zealand due to our higher wages and therefore, provides a suitable compromise. Farmers need certainty to enable them to plan for the seasons ahead. Dairy farmers are reporting they have already seen a decrease in backpackers wanting to work in Australia due to the uncertainty surrounding the tax and this cannot continue into the new year.²³

2.28 Cotton Australia also suggested the 19 per cent tax rate was a 'fair compromise' that would deliver an average of \$2000 back to WHMs compared to the original 32.5 per cent proposal, and allow Australia to remain a competitive destination for WHMs. It too stressed the need for a resolution of the issue as soon as possible.²⁴

19 Summerfruit Australia Ltd, *Submission 6*, pp. 1–3; Citrus Australia – SA Region, *Submission 11*, p. 1.

20 South Australian Wine Industry Association, *Submission 26*, p. 2.

21 AUSVEG, *Submission 17*, p. 3.

22 AUSVEG, *Submission 17*, p. 3.

23 Australian Dairy Industry Council, *Submission 28*, p. 1.

24 Cotton Australia, *Submission 29*, pp. 1–2.

2.29 NSW Farmers submitted that while the compromise package announced in September 2016 was not perfect, it was a 'significantly better' outcome than the originally proposed 32.5 per cent tax rate. The 19 per cent tax rate would leave the average WHM \$2000 better off than under the originally proposed rate, and Australia's minimum wage would still be higher after tax than WHMs would receive in New Zealand and Canada.²⁵

2.30 The National Farmers' Federation (NFF) reported that its member organisations had overwhelmingly endorsed the 19 per cent rate.²⁶ Mr Tony Mahar, Chief Executive Officer of the NFF, told the committee that the NFF's main concern had been the uncertainty created in the agricultural sector:

We have supported 19 per cent from the beginning. We are aware and conscious that people would like to pay a lower tax rate. What we need is for this bill to get through and certainty to be given to the agriculture sector. The uncertainty is killing the industry and causing huge concern as we come into the summer fruit season...²⁷

2.31 Mr Byrne from Advance Cairns, an economic development agency in Tropical North Queensland, told the committee that agricultural and tourism businesses that rely on WHM labour were looking for a 'speedy resolution' of the issue in order to provide 'some certainty moving forward'.²⁸ Mr Byrne further explained:

I think the 19 per cent, which was called a compromise figure, is acceptable. Would it be better if it was lower? Of course it would be better if it was lower, because the lower it is, the more demand there will be, or the more people available in that pool to satisfy the demand. On balance, we probably think between 15 and 19 is a fair figure.²⁹

2.32 The Australian Tourism Export Council (ATEC) told the committee that while a lower tax rate would have been well received, 'we accept the 19 per cent and are willing to move on because we desperately need to resolve this and create some certainty'.³⁰

25 NSW Farmers Association, *Submission 36*, p. 1. The National Farmers' Federation made the same point. National Farmers' Federation, *Submission 18*, p. 6.

26 Ms Sarah McKinnon, General Manager, Workplace Relations and Legal Affairs, National Farmers' Federation, *Proof Committee Hansard*, 26 October 2016, p. 19.

27 Mr Tony Mahar, Chief Executive Officer, National Farmers' Federation, *Proof Committee Hansard*, 26 October 2016, p. 20.

28 Mr Kevin Michael Byrne, Chief Executive Officer, Advance Cairns, *Proof Committee Hansard*, 31 October 2016, p. 1.

29 Mr Kevin Michael Byrne, Chief Executive Officer, Advance Cairns, *Proof Committee Hansard*, 31 October 2016, p. 4.

30 Mr Peter Shelley, Managing Director, Australian Tourism Export Council, *Proof Committee Hansard*, 2 November 2016, p. 21.

2.33 The Tasmanian Government also expressed support for the 19 per cent tax rate, observing that stakeholders such as the NFF and the TTF had expressed support for taxation at this level. It added that above all else, Tasmania's agricultural and tourism industries now required certainty, and this could only be provided by timely passage of the bills.³¹

2.34 Growcom noted the urgent resolution of the question of WHM taxation. However, it also expressed concern that:

...once again industry is expected to determine the appropriate tax rate without having access to the Treasury modelling or the assumptions upon which it was developed. We contend that the impact on industry, regional Australia and the broader community has been well documented and it is up to the government to act in good faith to deliver a package that will not have serious long term negative consequences.³²

Opposition to the 19 per cent tax rate

2.35 Some submitters argued against a 19 per cent tax rate and advocated allowing WHMs to access the tax-free threshold. Reid Fruits, a Tasmanian grower and exporter of cherries, argued that the proposed changes had the potential to 'create extreme economic hardship for labour intensive horticultural enterprises across rural and regional Australia'. It argued that the changes should be set aside until 'a full economic impact study' had been conducted.³³

2.36 Hansen Orchards, another major fruit producer in Tasmania, also told the committee that the proposed tax rate was too high, particularly when the increase to the DASP tax (discussed later in this chapter) was taken into account.³⁴

2.37 Fruit Growers Tasmania reported that the Tasmanian growing industry remained dissatisfied with the review undertaken by Deloitte and the resulting bill. It suggested that the government delay any changes for 6 to 12 months to allow time for a 'full review' of the proposed changes.³⁵

2.38 The Tasmanian Farmers and Graziers Association (TFGA) suggested that agricultural producers would not get the workers they needed with the 19 per cent rate, because WHMs would perceive that they are worse off than under the status quo.

31 Tasmanian Government, *Submission 34*, p. 2.

32 Growcom, *Submission 32*, p. 1.

33 Reid Fruits, *Submission 13*, p. 1. Also see Mr Timothy James Reid, Managing Director, Reid Fruits, *Proof Committee Hansard*, 2 November 2016, p. 13.

34 Mr Howard Carl Soelberg Hansen, Managing Director, Hansen Orchards Pty Ltd, *Proof Committee Hansard*, 2 November 2016, pp. 14–15.

35 Fruit Growers Tasmania, *Submission 2*, p. 1.

On this basis, the TFGA suggested that the government 'somehow revert back to the status quo for the time being', and delay any change.³⁶

2.39 Primary Employers Tasmania (PET) told the committee that while it had initially supported the 19 per cent rate, it now considered it too high once the changes to the DASP tax (discussed later in this chapter) were taken into account. PET advocated the introduction of a 13 per cent tax, which is also the withholding amount for individuals employed in the horticultural or shearing industry.³⁷

2.40 Noting the importance of WHMs to the Northern Territory economy, both as tourists and as a labour source, the Northern Territory Government indicated that it did not think the reduction in the first income tax bracket for WHMs from 32.5 per cent to 19 per cent would be sufficient to reverse the downward trend in WHM numbers. Instead, it argued that that 'a total reversal of the proposed taxation change will be required to send a clear message to WHMs that Australia welcomes and values them'.³⁸

2.41 The Queensland Government, highlighting the importance of backpackers for Queensland's tourism market and as a source of labour in the agricultural and tourism industries, also submitted that the proposed 19 per cent tax rate remained 'of significant concern in view of the likely flow on effects on the tourism and agricultural sectors, as well as broader rural and regional Queensland'.³⁹

2.42 YHA Australia maintained that the proposed tax rate of 19 per cent was too high. It referred to research conducted by Dr Jeff Jarvis, which indicated that a tax rate around this level would negatively impact demand for WHM visas.⁴⁰ YHA Australia submitted:

36 Mr Michael Badcock, Board Director and Council Member, Tasmanian Farmers and Graziers Association, *Proof Committee Hansard*, 2 November 2016, p. 4.

37 Mr Keith James Rice, Chief Executive, Primary Employers Tasmania, *Proof Committee Hansard*, 2 November 2016, p. 8. It should be noted that 13 per cent is not the rate of taxation that WHMs or other workers in the horticultural industry are currently subject to. Rather, this is the withholding rate that employers in the industry can use when paying employees in the horticultural or shearing industry in circumstances set out by the ATO (for example, the worker must not work for the same grower for a continuous period exceeding six months). It only applies to workers who are residents (and must advise their employer of this in their Tax File Number declaration). The 13 per cent rate is intended to reflect the uneven nature of income in these industries and to attempt to withhold an amount that would more accurately reflect the likely end of year tax liability.
<https://www.ato.gov.au/uploadedFiles/Content/MEI/downloads/Schedule-2-horticultural-shearing-industry-tax-table-2015-16.pdf>.

38 Northern Territory Government, *Submission 50*, p. 1.

39 Queensland Government, *Submission 40*, p. 1.

40 YHA Australia, *Submission 30*, p. 2. The research in question considered the impact of an 18 per cent tax rate.

Generally, Working Holiday Makers are mobile and willing to do seasonal agricultural work in regional areas, doing jobs that Australians will not themselves do. Working Holiday Makers are also generally happy to pay a fair level of tax, but not at a rate much higher than Australians as that acts a barrier and a deterrent - and is against the Australian concept of 'fair go'. There is also a precedent in the flat rate of 15% which is already in place for the Pacific Islanders 'Seasonal Worker Program', and which equates to the effective marginal tax rate paid by an Australian working full time on a minimum wage and enjoying a tax-free threshold on initial earnings.⁴¹

2.43 Tourism Central Australia (TCA) emphasised the importance of WHMs for tourism businesses in central Australia. It argued for scrapping the PMC (a matter discussed in a later chapter) and aligning the taxation of WHMs with the taxation of the rest of the Australian workforce.⁴²

2.44 Tourism Tropical North Queensland told the committee that the change from a 32.5 per cent to a 19 per cent tax rate, along with the other elements of the reform package, represented an improvement from the original proposal. However, the tax changes still 'raise barriers to the growth of the tourism industry and the visitor economy'.⁴³

2.45 Ms Tara Bennett, Executive Officer of Tourism Port Douglas Daintree, told the committee that the removal of WHMs access to the tax-free threshold would hurt Australia's ability to compete in an important segment of the tourism market. Ms Bennett also referred to the importance of WHMs as a labour source for businesses in the Douglas Shire, and suggested the tax changes created challenging conditions for those businesses.⁴⁴

2.46 Ms Bennett subsequently added that tourism businesses would also suffer from WHMs having less disposable income to spend as a result of the 19 per cent tax.⁴⁵ Mr Dominic Davies, the Managing Director of Woolshed Holdings, which is primarily a backpacker bar and restaurant in Cairns, also indicated that businesses such as the Woolshed would lose earnings because WHMs would have less money to spend.⁴⁶

41 YHA Australia, *Submission 30*, p. 2.

42 Tourism Central Australia, *Submission 4*, pp. 1–2.

43 Mr Alex de Waal, Chief Executive Officer, Tourism Tropical North Queensland, *Proof Committee Hansard*, 31 October 2016, p. 11.

44 Ms Tara Bennett, Executive Officer, Tourism Port Douglas Daintree, *Proof Committee Hansard*, 31 October 2016, p. 12.

45 Ms Tara Bennett, Executive Officer, Tourism Port Douglas Daintree, *Proof Committee Hansard*, 31 October 2016, p. 17.

46 Mr Dominic Davies, Managing Director, Woolshed Holdings, *Proof Committee Hansard*, 31 October 2016, p. 21.

Clarification from the Australian Taxation Office

2.47 There was some confusion during the inquiry in relation to what would occur if the bill introducing the 19 per cent tax rate was not passed, with some witnesses suggesting that if the bill was not passed, most WHMs would have access to the tax-free threshold.

2.48 As explained in the first chapter, the ATO has advised the committee that it would apply the current law if the bill was not passed. Because the ATO considers that most WHMs are non-residents due to their pattern of working and holidaying while in Australia, the ATO explained that it would endeavour to help WHMs understand Australia's self-assessment tax system, so they are able to correctly advise their employers of their residency status and have the correct tax withheld from their wages. The ATO further advised that it would work with tax agents to ensure that the advice they provided was consistent with the ATO view regarding residency status for WHMs, as confirmed by recent AAT decisions. The process of applying the current law, the ATO advised, would also include some checking of returns.⁴⁷

2.49 In light of this advice from the ATO, it would appear unlikely that most WHMs would be able to claim residency status—and therefore access the tax-free threshold—in the event the bill does not pass. On the contrary, as the ATO seeks to apply the current law, it would be likely that most WHMs would, in fact, be subject to the non-resident tax rate of 32.5 per cent from their first dollar of income.

Departing Australian superannuation payments (DASP) tax

2.50 As noted in the first chapter, the reform package will increase the departing Australian superannuation payments (DASP) tax to 95 per cent for WHMs. This compares to the current DASP tax rate of 38 per cent for the taxed elements of superannuation, and 47 per cent for untaxed elements.

2.51 The Explanatory Memorandum stated that the changes were 'consistent with the objective of superannuation which is to support Australians in their retirement'.⁴⁸

2.52 The committee did not receive any concrete data on the number of WHMs who claim their superannuation upon or after leaving Australia. A representative of Treasury explained it was not easy to determine what proportion of WHMs were claiming their superannuation when leaving Australia because of the difficulty of separating WHMs out from other temporary residents claiming their superannuation. However, Treasury suggested the number of WHMs claiming their superannuation was likely high, and somewhere in the order of 95 per cent.⁴⁹ The NFF, meanwhile,

47 Australian Taxation Office, *Submission 54*, p. 1.

48 Explanatory Memorandum, p. 20.

49 Mr Robert Ewing, Acting Division Head, Tax Analysis Division, Revenue Group, Treasury, *Proof Committee Hansard*, 26 October 2016, p. 26.

reported its understanding that approximately 80 per cent of WHMs are likely to claim their superannuation on departure.⁵⁰

Are the proposed changes fair and equitable?

2.53 Some submitters suggested the DASP tax changes were unfair. For example, the Australian Institute of Superannuation Trustees (AIST) noted in its submission that the changes only apply to visitors on 417 and 462 visa subclasses or related bridging visas. All other categories of foreign nationals who work temporarily in Australia will continue to be subject to the existing DASP tax rate if and when they take their superannuation. The AIST argued that singling out WHMs, who are only one of many classes of foreign nationals able to work in Australia, was inequitable.⁵¹

2.54 Claiming that WHMs already suffer high levels of exploitation by unscrupulous employers, the AIST added that the changes to the DASP tax would 'incentivise efforts to avoid paying superannuation, as well as cash-in-hand arrangements'.⁵²

2.55 The National Union of Workers (NUW) also suggested that the government's proposed treatment of the superannuation of WHMs was discriminatory, given other non-resident visa holders would be unaffected by the change. The NUW further argued that the change could lead to higher levels of worker exploitation:

Backpackers are already treated as a subclass of workers in terms of the inferior treatment and exploitation they likely face. Introducing a 95% tax rate on superannuation effectively results in the abrogation of a condition enjoyed by other workers. Having different sets of taxation arrangements and working conditions will only implicitly condone further differential treatment of temporary visa holders by employers, and we are concerned this will lead to further exploitation.⁵³

2.56 Mr Luke Smith, a CPA, took issue with the idea that WHMs should not be paid superannuation because they have no intention of using it to fund retirement savings. Mr Smith submitted:

The SG [superannuation guarantee] is not paid by the Government, but is an employee entitlement paid by employers. Indeed, when the SG was introduced it was in place of wage increases. Simply exempting WHMs from the SG altogether, likely reducing their total remuneration, creates issues of entitlements between different classes of employees and may be detrimental to the SG and superannuation system in the long term.⁵⁴

50 Ms Sarah McKinnon, General Manager, Workplace Relations and Legal Affairs, National Farmers' Federation, *Proof Committee Hansard*, 26 October 2016, p. 17.

51 Australian Institute of Superannuation Trustees, *Submission 25*, p. 1.

52 Australian Institute of Superannuation Trustees, *Submission 25*, p. 2.

53 National Union of Workers, *Submission 52*, pp. 1–2.

54 Mr Luke Smith, *Submission 37*, p. 2.

Possible effect of DASP tax changes on WHM numbers

2.57 Some witnesses expressed concerns that the DASP tax changes might put downward pressure on WHM numbers. For instance, APAL suggested that the higher DASP might:

...cause a disincentive for future arrivals. The combination of 19 per cent tax plus 9.03 per cent (superannuation rate of 9.5% multiplied by 95%) means a backpacker tax rate is effectively 28.03 per cent. Australia competes in an international market to attract backpackers, and it is our understanding that many access these superannuation funds as they leave the country.⁵⁵

2.58 Fruit Growers Tasmania was also critical of the 95 per cent tax on superannuation earnings, and suggested that this brought the effective tax rate for the average WHM up to 28 per cent.⁵⁶ It argued that superannuation should either be 'paid as normal or alternatively collected in part by Government with elements returned to the respective State for regional projects, grants and industry work'.⁵⁷

2.59 Growcom expressed some concerns that the changes to the DASP might:

...reduce the attractiveness of Australia as a working holiday destination. The huge publicity around the backpacker tax resulting from the multiple reviews and drawn out decision making process has made backpackers much more aware of what their current benefits are and much more sensitive to any perceived reduction in those benefits.⁵⁸

2.60 The Northern Territory Government indicated that it opposed the proposed change on the basis of the 'negative signal' it would send to WHMs.⁵⁹

2.61 Ms Rachel Mackenzie, Chief Advocate of Growcom, told the committee that, on the one hand, Growcom had long held the position that 'paying superannuation to backpackers which they cannot access until they leave the country seems rather perverse for a whole range of reasons'.⁶⁰ Ms Mackenzie also advised that Growcom's position was that the superannuation changes should be passed.⁶¹ However, Ms Mackenzie noted nonetheless that 'if there is a perception by the backpackers that

55 Apple and Pear Australia Limited, *Submission 12*, p. 3. The same point was made by AUSVEG. AUSVEG, *Submission 17*, p. 3.

56 Fruit Growers Tasmania, *Submission 2*, p. 1.

57 Fruit Growers Tasmania, *Submission 2*, p. 3.

58 Growcom, *Submission 32*, pp. 2–3.

59 Northern Territory Government, *Submission 50*, p. 2.

60 Ms Rachel Mackenzie, Chief Advocate, Growcom, *Proof Committee Hansard*, 31 October 2016, p. 28.

61 Ms Rachel Mackenzie, Chief Advocate, Growcom, *Proof Committee Hansard*, 31 October 2016, p. 29.

the removal of their superannuation makes Australia less attractive, then that is of concern to us'. At the same time, Ms Mackenzie noted that there was a lack of data on the importance of superannuation to WHMs, including solid data on how many access it when leaving the country, so the likely impact of the changes was unclear.⁶² She added:

Our position, as we put forward in our submission, was that, as this would not come into force until mid next year, perhaps we could ask for some modelling, some numbers, some research, some analysis, some data so that we could make an informed decision about this.⁶³

The regulatory impost of paying superannuation to WHMs

2.62 Some witnesses criticised the DASP tax changes from a different perspective altogether, arguing that it made little sense to require employers of WHMs to go through the process of setting up superannuation payments to WHMs when the government was only going to take this money through a 95 per cent DASP tax. These witnesses objected to the notion that WHMs would lose most of their superannuation, and some noted that WHMs were highly unlikely to retire in Australia and therefore meet the 'sole purpose test' of the Superannuation Industry (Supervision) Act 1993 (a test that requires that a superannuation fund is maintained for the purpose of providing benefits to its members on retirement, or to dependents if a member dies before retirement).⁶⁴ Instead, these witnesses took issue with the regulatory burden imposed on employers in setting up superannuation payments to WHMs. In this sense, these criticisms went to both the current system and the proposed changes.

2.63 For example, the Pastoralists & Graziers Association of WA (PGAWA) suggested it was pointless for employers to have to pay superannuation to WHMs that would be taxed at 95 per cent. The PGAWA reported anecdotal evidence from its members that backpackers were generally unaware of Australian superannuation law, and it had no impact on their decision to accept seasonal employment. The PGAWA also submitted that:

...requiring employers to complete the necessary paperwork as well as paying into superannuation funds that will never be accessed for its intended purpose, the Commonwealth Government is imposing an unnecessary administrative burden on small family owned businesses.⁶⁵

62 Ms Rachel Mackenzie, Chief Advocate, Growcom, *Proof Committee Hansard*, 31 October 2016, p. 28.

63 Ms Rachel Mackenzie, Chief Advocate, Growcom, *Proof Committee Hansard*, 31 October 2016, p. 28.

64 See, for example, Growcom, *Submission 32*, p. 2.

65 Pastoralists & Graziers Association of WA, *Submission 24*, p. 2.

2.64 The PGAWA argued that if the 19 per cent income tax on WHMs went ahead, then superannuation contributions should be paid directly to WHMs as part of pre-tax income:

In this way, the administrative burden of superannuation is removed from the employers of seasonal 'backpacker' labour in rural areas, tax collection from 'backpackers' is immediate and streamlined into one operation, and there is no discrimination between temporary and Australian Residents on the basis of earnings.⁶⁶

2.65 The NFF also expressed reservations about the DASP changes, given farmers will continue to have a 'red-tape cost' of ensuring superannuation payments are made to WHMs, despite the fact WHMs were highly unlikely to ever retire to Australia.⁶⁷ Ms McKinnon told the committee:

There is a feeling—not universally, but certainly in some parts of the farm sector—that that is a strange outcome, because farmers already feel frustrated about paying superannuation for temporary residents if they do not have any intention of retiring in Australia. Now the 95 per cent tax rate really means that that frustration grows.⁶⁸

2.66 At the same time, the NFF indicated that these reservations about the DASP changes were by no means a 'deal breaker', and it remained supportive of the package as a whole.⁶⁹

2.67 Growcom argued that the minimum threshold at which superannuation was required to be paid (currently \$450 per month):

...needs to be lifted as the red-tape burden on growers for providing very short term workers with superannuation is significant. This threshold has not changed for many years and requires growers to provide superannuation and do the associated paperwork for employees who stay less than three days. The sheer volume of workers processed by an individual horticulture enterprise means that any measure to cut paperwork in this area would have a huge cost saving across industry and be in line with a red-tape reduction agenda. Another innovative option would be to have a single visa number, tax file number and superannuation number which would significantly cut down on administration costs.⁷⁰

66 Pastoralists & Graziers Association of WA, *Submission 24*, p. 3.

67 Ms Sarah McKinnon, General Manager, Workplace Relations and Legal Affairs, National Farmers' Federation, *Proof Committee Hansard*, 26 October 2016, pp. 17–18.

68 Ms Sarah McKinnon, General Manager, Workplace Relations and Legal Affairs, National Farmers' Federation, *Proof Committee Hansard*, 26 October 2016, p. 17.

69 Ms Sarah McKinnon, General Manager, Workplace Relations and Legal Affairs, National Farmers' Federation, *Proof Committee Hansard*, 26 October 2016, p. 22,

70 Growcom, *Submission 32*, p. 3.

2.68 The NSW Business Chamber submitted that it had concerns regarding the proposed increase in the DASP for WHMs to 95 per cent:

Allowing these workers to be paid their superannuation contribution (9.5% of ordinary time earnings) as part of their taxable income would significantly reduce red tape for both employers and workers. With WHMs often working for multiple employers in Australia, it would stop the need for employers to register these workers for superannuation as well as reduce the proliferation of super accounts with different super funds.

We believe that with superannuation contributions for these workers now to be taxed at a rate of 95% business is being put through unnecessary levels of red tape and regulation to simply act as a de facto tax collector for the Government.⁷¹

2.69 Mr Timothy Reid, Managing Director of Reid Fruits, voiced concern about the DASP tax increase, and added:

I think we need to pay superannuation to backpackers so that local employees are competitive, otherwise there would be a preference to employ backpackers rather than locals, but it would be better to have that money go into some other proposal, such as back into programs that support industries or whatever that are paying the tax. You could even give it to the backpackers to spend while they are in Australia, rather than them spend it in Bali or somewhere on the way home ... and so then all of this money goes into the local economy.⁷²

2.70 Mr Dominic Davies, Managing Director of Woolshed Holdings, also noted the need to pay backpackers superannuation in order not to 'distort the labour market and make [WHMs] cheaper to hire than Australian residents'. However, Mr Davies also recommended that any superannuation savings held by WHMs should be subject to a 100 per cent tax upon their departure from Australia.⁷³

Views on the package as a whole

2.71 Some participants in the inquiry, particularly tourism bodies and operators, suggested that the reform package as a whole (including elements not contained in the bills under inquiry) would help promote Australia's competitiveness as a destination for WHMs. For example, noting that it had taken part in the WHM visa review undertaken by the government, Tourism Australia submitted that the reform package includes a range of measures that will improve the competitiveness of Australia's WHM program. These measures include reductions in visa costs and taxation rates, and measures that are not part of the bills under consideration in this inquiry, such as

71 NSW Business Chamber, *Submission 35*, p. 1.

72 Mr Timothy James Reid, Managing Director, Reid Fruits, *Proof Committee Hansard*, 2 November 2016, p. 15.

73 Mr Dominic Davies, Managing Director, Woolshed Holdings, *Proof Committee Hansard*, 31 October 2016, p. 21.

increases to the age limit for WHMs and the uncapping or increases to caps for markets with limited WHM visa allocation.⁷⁴

2.72 The CaPTA Group, a family-owned and operated tourism company in Tropical North Queensland, expressed some ongoing concerns about the 19 per cent tax rate, but acknowledged that:

...all in all there are positive changes that are included in this package. It is positive to see that the age of eligibility will be increased from 30 to 35, and also the reduction of the cost of the visa by \$50 to \$390 but, ultimately, it is still more expensive than similar visas in New Zealand and Canada. It is also positive to see \$10 million put towards Tourism Australia for dedicated backpacker tourism promotion over the next two years.⁷⁵

2.73 YHA Australia commented that measures such as the reduction of the visa fee for WHMs and the proposed increase in the age limit for WHMs (a measure not in the current package of bills) would 'bring more [WHMs] with greater disposable income, and will be good for tourism'.⁷⁶

2.74 The Australian Hotels Association, in addition to supporting the 19 per cent tax rate, told the committee:

With regard to visa eligibility and requirements, we were very pleased to note that the government had proposed significant changes, many in line with our ongoing advocacy and submissions in this area. These changes should increase flexibility and supply of working holidaymakers and include: allowing working holidaymakers to work for the same employer for 12 months instead of six months; extending to hotel chains the same provisions that allow labour hire companies to employ working holidaymakers for longer than six months; reducing the cost of a visa by \$50, from \$440 to \$390; increasing the maximum eligibility age of working holidaymaker visas from 30 years to 35 years; introducing a \$10 million investment and overseas marketing campaign to stimulate visitation; and introducing the registration and compliance for working holidaymaker employers. These changes will improve Australia's international competitiveness in attracting working holidaymakers, particularly in regional and seasonal areas.⁷⁷

74 Tourism Australia, *Submission 51*, pp. 2. Measures such as an increase in the age limit of WHMs, changes to visa caps, the ability for WHMs to receive a second year for their stay for work in the tourism sector and a Tourism Australia promotional campaign.

75 Mr Ben Woodward, Director, Sales and Marketing, CaPTA Group, *Proof Committee Hansard*, 31 October 2016, p. 7.

76 Mr Julian Litton Ledger, Chief Executive Officer, YHA Australia, *Proof Committee Hansard*, 2 November 2016, p. 22.

77 Mr Stephen Ferguson, National CEO, Australian Hotels Association, *Proof Committee Hansard*, 2 November 2016, p. 33.

Review of the reform package

2.75 Some witnesses, while broadly supportive of the reform package, suggested that there would be value in reviewing the impact of the changes after an appropriate passage of time.

2.76 For example, Australian Chamber – Tourism supported the changes to income tax rates for WHMs, subject to the government undertaking a review after a full year's figures were available as to whether the measure was 'meeting or exceeding targets, the impacts on labour supply, and demand for working holiday visas'.⁷⁸

2.77 CAANZ noted that there was some disagreement regarding the role of WHMs and their tax treatment. It suggested it would be:

...worthwhile reviewing the impact of working holiday maker reform package on employment and employment conditions in two-three years after its commencement. This would be in addition to the proposed annual reports by the Commissioner of Taxation which focus on working holiday makers rather than employment more broadly.⁷⁹

2.78 Growcom, referring to the requirement for the Commissioner to provide a report in relation to the WHMs (drawing on data in the proposed register of WHM employers, which is discussed in chapter 3) requested:

...that figures be provided to industry to keep track of the engagement of WHMs in the horticulture industry and if there is a significant decline, we would ask that the taxation rate be revisited.⁸⁰

2.79 Mr Martin Ferguson, Chair of Tourism Accommodation Australia (a division of the Australian Hotels Association), suggested a review of the changes after 12 months (or a suitable period of time). This review, he explained:

...would have to have a look at a far wider range of issues than just issues such as the passenger movement charge. It would have to look at the state of the labour market; the transition in our economy from a resources based economy to very much a service based economy; the growth and importance of part-time jobs against full-time jobs, as reflected in the last few ABS figures; and, I might say, the historic state of some of the key source markets, such as Ireland. They are all factors that will have an impact on our potential capacity to attract people.⁸¹

78 Australian Chamber – Tourism, *Submission 19*, p. 4.

79 Chartered Accountants Australia and New Zealand, *Submission 31*, p. 2.

80 Growcom, *Submission 32*, p. 2.

81 Mr Martin Ferguson, Chair, Tourism Accommodation Australia, *Proof Committee Hansard*, 2 November 2016, p. 34.

Committee view

2.80 The committee notes that there has been some confusion regarding the introduction of a new tax rate for WHMs. As previously noted in this report, recent AAT decisions have established that, under the law as it currently stands, most WHMs are in fact non-residents for tax purposes and are already required to pay 32.5 per cent income tax from the first dollar earned. While some WHMs currently self-assess as residents, and therefore access the tax free threshold, it is apparent that many do so incorrectly.⁸²

2.81 A failure to pass the bill does not, therefore, mean that most WHMs will be able to access the tax-free threshold and pay zero per cent in income tax. On the contrary, in light of the AAT's recent rulings, it is likely that most WHMs would subject to taxation at the 32.5 per cent non-residents rate. As such, as the Explanatory Memorandum sets out, while Australia 'seeks to remain an attractive destination for WHMs', the 'current tax treatment of WHMs threatens this goal'.⁸³ The timely passage of the reform package will address this threat.

2.82 While the bill would remove the ability of some WHMs to claim the tax-free threshold, a 19 per cent tax rate would provide employers of WHMs and WHMs themselves with the certainty they need, and ensure WHMs will not be taxed at the 32.5 per cent rate that applies for most non-residents. The committee is satisfied that a 19 per cent tax rate represents a good compromise from the original proposal of a 32.5 per cent tax rate for all WHMs, and notes strong support for the measure from a broad range of business and industry organisations in sectors that rely heavily on WHMs as a source of labour. The committee is also satisfied that a 19 per cent tax will ensure Australia remains internationally competitive in attracting WHMs to travel and work in Australia.

2.83 The committee notes that a large number of witnesses, and in particular businesses employing WHMs, emphasised the need for a speedy passage of the bill in order to provide both employers and WHMs with certainty going forward. The committee agrees with this view, and urges the Senate not to delay progress on the bills and thereby deny these businesses the certainty they need.

2.84 The committee is comfortable with the proposed changes to the DASP tax for WHMs. It notes that the superannuation exists to help Australians provide for the retirement, and the changes reflect this purpose. At the same time, the committee is cognisant of the fact that if employers were simply not to pay superannuation to WHMs this would distort the market, and the changes ensure that employers will continue to pay the same rates of pay for both WHMs and Australian employers.

82 On this point, also see Explanatory Memorandum, p. 45.

83 Explanatory Memorandum, p. 45.

2.85 The committee is confident that, taken as a whole, the reform package will both ensure that WHMs are paying a fair share of tax, while ensuring Australia remains a destination of choice for WHMs.

2.86 While the committee considers the reform package a positive outcome for WHMs, employers of WHMs and the visitor economy, it agrees that there would be value in reviewing the changes after a suitable period of time post-implementation, such as mid-2018. This review could consider various aspects of the reform package and the appropriateness of broader policy matters in relation to WHMs, including the impact of the taxation rate on WHM numbers and activity and whether the superannuation arrangements for WHMs could be improved.

Recommendation 1

2.87 The committee recommends that after a suitable period of time following the implementation of the reform package, the government conduct a review of taxation and other policy settings in relation to working holiday makers, including the impact of the changes in the reform package.

Chapter 3

Employer register and compliance measures

3.1 As explained in the first chapter, the reform package establishes a framework for requiring employers of WHMs to register with the Commissioner of Taxation (the Commissioner). Registered employers will be able to apply reduced rates of PAYG Withholding to withholding payments made to WHMs. In addition, the reform package creates a requirement for the Commissioner to report to the Minister regarding the taxation of WHMs, including statistics derived from the employer register.

3.2 This chapter summarises evidence received in relation to the new registration requirement for employers of WHMs. In turn, this chapter briefly considers the proposed requirement for the Commissioner to report to the Minister.

Registration of employers of WHMs

3.3 Some witnesses voiced concerns about the potential regulatory burden and compliance costs of the new registration requirement, even while acknowledging the value of the proposed register. For example, Mr Byrne from Advance Cairns told the committee:

We need to understand that a lot of the people that are employed in both sides of the industry—agriculture and tourism—are employed essentially by small businesses, and the last thing we need to do is to impose—unfairly and unreasonably—more red tape and burdensome legislation and restrictions on them. That is the first point. The second point is that we do, however, recognise that this is an industry, particularly on the agricultural side, where there have in the past been some unscrupulous operators that provided contract labour to these growers at peak seasonal times. Evidence abounds—there have been some unscrupulous operators there. So as long as the legislation or the requirements are tailored to make sure that these people that we bring here as—euphemistically—backpacker labour are treated appropriately, treated fairly, paid well, and live in conditions that ordinary Australians would expect them to live in—I think that is a minimum requirement.¹

3.4 Growcom advised that it had concerns about the registration requirement, as it was not yet clear what form the registration would take. Growcom submitted:

We accept that ensuring WHMs are treated fairly is an important issue but request that the Australian Taxation Office (ATO) consults with industry in

1 Mr Kevin Michael Byrne, Chief Executive Officer, Advance Cairns, *Proof Committee Hansard*, 31 October 2016, p. 4.

the development of the registration process to ensure that it is straightforward and easy to comply with.²

3.5 Cotton Australia also expressed concerns about the regulatory impost of the registration requirement:

Cotton Australia does not see the justification behind the requirement that businesses seeking to employ working holiday makers with the 19% tax rate must register with the ATO, with the list of employers being available on the ABN lookup. The justification for this policy measure and its overall intention is unclear and seems to be unnecessary red tape which has already been identified in draft findings by the Productivity Commission as a serious problem for the agriculture industry. This registration process should be as simple as possible to minimise the already substantial cumulative regulatory burden for growers.³

3.6 While not opposing the proposed registration process, the NFF also emphasised the need to minimise the regulatory burden on employers. It urged the ATO to 'consult with industry in the development of the registration form to ensure that it is as simple and easy as possible'.⁴

3.7 SAWIA opposed the requirement to register with the ATO, arguing it would 'simply add to the regulatory burden on business without any positive effect on compliance with and enforcement of workplace laws'.⁵ SAWIA submitted:

Businesses that are already complying with their legislative obligations will of course register. On the other hand, businesses that are deliberately seeking to avoid their obligations will continue to do so by paying employees cash in hand or through complex structures and arrangements, for example phoenixing. Therefore the new registration requirement is likely to simply add to the regulatory burden of complying businesses while not providing any tangible benefits.⁶

3.8 Instead of the registration requirement, SAWIA suggested that greater cooperation between the relevant authorities would be more useful in helping prevent breaches of workplace laws by employers of WHMs. In this respect, it welcomed the provision in the reform package for greater information sharing between the ATO and the Fair Work Ombudsman.⁷

2 Growcom, *Submission 32*, pp. 1–2.

3 Cotton Australia, *Submission 29*, p. 2.

4 National Farmers' Federation, *Submission 18*, p. 9.

5 South Australian Wine Industry Association, *Submission 26*, p. 7.

6 South Australian Wine Industry Association, *Submission 26*, p. 5.

7 South Australian Wine Industry Association, *Submission 26*, p. 6.

3.9 In contrast, CAANZ submitted that it supported:

...the requirement that relevant employers be registered with the Australian Taxation Office (ATO) to enable PAYG withholding to be undertaken at the relevant working holiday maker income tax rates. The registration details, along with the information required to be provided to the ATO, should provide vital information to assist Australian policy makers and help ensure that legitimately employed working holiday makers are protected.⁸

3.10 While supportive of the registration requirement, including as a means to encourage appropriate behaviour by employers, CAANZ added that this needed to be supported by an improved detection system for non-compliant behaviour by both WHMs incorrectly claiming residency for tax purposes and employers of WHMs operating in the cash economy.⁹

3.11 Mr Martin Ferguson, Chair of Tourism Accommodation Australia, spoke in support of the proposed registration of WHM employers:

I must say that I give full credit to the government for taking the initiative on employer registration. That is a very important initiative from our point of view, representing all the major hotels and the hotel industry. That is a very strong statement to potential young backpackers coming to Australia, that the government is going to go out of its way to guarantee that they get their full entitlements.¹⁰

3.12 The Explanatory Memorandum notes that the Commissioner has the flexibility to specify the manner in which an employer can apply for registration. This 'allows the Commissioner to minimise compliance costs for employers by providing a variety of options for registration, such as an online process or by telephone'.¹¹

3.13 The ATO also provided the committee with assurances that it would 'absolutely' be consulting with stakeholders on the development of an employer register:

When we introduce new forms or new processes our standard process is to consult with the people who will have to use them. It is definitely part of our approach to test that and get some feedback from them to make sure it is as streamlined and simple as it can be.¹²

8 Chartered Accountants Australia and New Zealand, *Submission 31*, p. 2.

9 Chartered Accountants Australia and New Zealand, *Submission 31*, pp. 2–3.

10 Mr Martin Ferguson, Chair, Tourism Accommodation Australia, *Proof Committee Hansard*, 2 November 2016, p. 35.

11 Explanatory Memorandum, p. 21.

12 Ms Alison Lendon, Deputy Commissioner, Individuals, Australian Taxation Office, *Proof Committee Hansard*, 26 October 2016, p. 36.

Reporting requirement

3.14 As noted in the first chapter, the reform package creates a requirement for the Commissioner to report annually to the Minister about the employment of WHMs, including statistics and information that the Commissioner derives from the employer register. The Minister will then be required to table this report in the Parliament.

3.15 The Explanatory Memorandum states:

The working holiday maker report will provide valuable information to stakeholders and Government, to ensure that they are better informed. The report will increase transparency about the industries that employ working holiday makers, including the regions and sectors they are employed in.¹³

3.16 The creation of the reporting requirement was not a major focus of the evidence received in the inquiry. However, Growcom did request that:

...that the Commissioner consults with industry in relation to the nature of the information provided publically in the report on working holiday makers each year, particularly in relation to privacy concerns.¹⁴

3.17 While not necessarily referring to the reporting requirement in the reform package, several witnesses did draw the committee's attention to the current lack of robust data on the WHM market. For example, the Northern Territory Government, referred to the lack of data regarding the contribution of WHMs to the Australian labour market and overall economy.¹⁵ It is worth noting, in this regard, that the reporting requirement is intended in part to ensure better data is available on the WHM market.

Committee view

3.18 The committee considers there is significant value in establishing a register for employers of WHMs, including with regard to protecting the interests of WHMs. At the same time, the committee is alert to the need to avoid imposing an additional regulatory impost on businesses. As such, the committee considers the ATO should consult with the stakeholders, including employers of WHMs, in developing and implementing the register, to ensure it is as straightforward and transparent as possible, and any regulatory burden is minimised. The committee welcomes assurances from the ATO that this consultation will occur.

3.19 The committee also notes the value of the Commissioner being able to seek information through the registration process in relation to an entity's employment, or proposed employment, of WHMs.¹⁶ This requirement will enhance the information

13 Explanatory Memorandum, p. 28.

14 Growcom, *Submission 32*, p. 2.

15 Northern Territory Government, *Submission 50*, pp. 7–8.

16 Explanatory Memorandum, p. 21.

available regarding WHMs in Australia, including information about the locations and sectors employing WHMs. This information, which will also inform an annual report from the Commissioner to the Minister, will help ensure the government and stakeholders have a stronger understanding of the WHM market.

Recommendation 2

3.20 The committee recommends that the Australian Taxation Office consult widely with industry stakeholders, including employers of working holiday makers, in developing the proposed employer register and designing the registration process.

Chapter 4

Passenger Movement Charge

4.1 As noted in a previous chapter, the reform package includes a one-off \$5 increase to the passenger movement charge (PMC) from \$55 to \$60. This chapter considers views expressed by inquiry participants regarding this aspect of the package.

Background

4.2 The PMC is a \$55 cost for the departure of a person from Australia to another country. It is charged regardless of whether the person returns to Australia. The PMC is collected at the time a ticket is sold, and then forwarded by the carrier to the Department of Immigration and Border Protection.¹

4.3 The PMC was introduced in 1995 as a replacement for the Departure Tax, and is levied on all outbound international passengers. It was originally intended to offset the cost to government of the provision of passenger facilitation at airports, including customs, immigration and quarantine functions. As the Australian Airports Association (AAA) notes in its submission, since the PMC was established at \$27 in 1995, it has been increased four times, with the most recent increase in 2012 bringing the PMC to \$55.²

4.4 In his second reading speech, the Treasurer advised that the approximately 9 per cent increase currently proposed was broadly in line with the increase in the consumer price index (CPI) between 2012 and 2017. Placing the \$5 increase in context, the Treasurer further noted that in the same period since 2012 the government had:

...already acted to lower the cost for travellers and to improve their visitor experience.

We have invested significantly in improving the performance of our airports and the passenger experience through our airports.

We have also established the counter-terrorism units which form an important part of our border security, all funded out of the budget—all funded without making a call on the passenger movement charge.

We have also acted on recommendations of the Financial System Inquiry regarding credit and debit card surcharges. As a result of these changes,

1 Certain passengers are exempt from the payment of the PMC, such as children under 12 years of age, transit passengers, emergency passengers and crew members. Department of Immigration and Border Protection, webpage, 'Passenger Movement Charge (PMC)', [https://www.border.gov.au/Trav/Ente/GoIn/Departing/Passenger-Movement-Charge-\(PMC\)](https://www.border.gov.au/Trav/Ente/GoIn/Departing/Passenger-Movement-Charge-(PMC)), accessed 31 October 2016.

2 Australian Airports Association, *Submission 33*, p. 1.

travellers to and within Australia are no longer subject to excessive surcharging, whether booking into a hotel, booking a flight or tickets to a show—or even catching a cab.³

Views on the measure

The PMC in international context

4.5 Some witnesses emphasised that, even without the increase in the PMC, Australia's departure tax was already high by international standards. Indeed, according to the AAA, Australia already has the second highest departure tax in the OECD after the United Kingdom. Moreover, unlike Australia, the United Kingdom's Air Passenger Duty is a tiered charge based on distance travelled, and is thus lower for short-haul flights. Even among developing countries, only Fiji and Ghana levy higher departure taxes than Australia.⁴

The PMC as a cost-recovery mechanism

4.6 The AAA noted that whereas the PMC was ostensibly intended to offset the cost to government of the provision of passenger facilitation at airports, revenue currently raised by the PMC (\$881 million in 2014–15) far exceeded the current costs to government of passenger facilitation (under \$400 million for the same period)⁵:

This latest proposed increase to the PMC is expected to further increase this revenue stream by generating an additional \$260 million for the Government over the next three years. Although the PMC was originally introduced as a cost-recovery mechanism, it has now been increased on five separate occasions without even being reviewed to ensure it is meeting its originally intended purpose.⁶

4.7 Similarly, American Airlines submitted that it opposed both the 'way this increase is being implemented as well its lack of any relationship to airport improvement'. American Airlines added:

The proposed PMC increase impacts the aviation sector by raising the cost of ticket prices by approximately 9%. And since the funds collected are not returned to airport operators, there are no off-setting benefits for the traveling public. Cost conscious travellers may not be offered a competitive or desirable airfare for travel to/from Australia due to the continuously increasing costs. Just as airlines compete for customers, airports also

3 The Hon Scott Morrison, Treasurer, second reading speech, *House of Representatives Proof Hansard*, 12 October 2016, p. 8.

4 Australian Airports Association, *Submission 33*, p. 2.

5 Australian Airports Association, *Submission 33*, p. 1.

6 Australian Airports Association, *Submission 33*, p. 2.

compete for customers and high fees negatively impact the airports' ability to attract new routes and commercial entities.⁷

4.8 A number of other organisations also noted that the PMC already raises more in revenue than is required to cover the costs of passenger facilitation. For example, the Board of Airline Representatives of Australia (BARA) pointed to evidence that 'supports the widely held industry view that the PMC already substantially over recovers on the costs incurred by the Australian Government in providing border clearance processes'.⁸ Similarly, Cruise Lines International Association Australasia submitted that:

...the tourism sector more than contributes to the costs of passenger movement services through the taxes and charges already levied, and believes that the PMC should be frozen at its current level.⁹

4.9 Other submitters also noted that the additional revenue raised by the PMC increase would not be used to offset the passenger movement costs. The Association of Asia Pacific Airlines (AAPA) noted that this was inconsistent with the International Civil Aviation Organisation's (ICAO) policy that 'charges are levies to defray costs of providing facilities and services for civil aviation'. Given Australia is a member of ICAO, the AAPA urged the government to reconsider the proposed PMC increase.¹⁰

4.10 Similarly, the Australian Federation of Travel Agents (AFTA) argued that the disconnect between the PMC and passenger movement costs represented a breach of Australia's international commitments. According to AFTA, in 2015–16 the costs of passenger facilitation were only 26 per cent (\$265 million) of the revenue raised by the PMC, with the PMC thus resulting in a windfall to the government of \$719 million.¹¹

4.11 AFTA also noted that the disconnect between PMC revenue and passenger facilitation costs was growing—whereas PMC revenues were already increasing with increased passenger movements, passenger facilitation costs had fallen and were flat going forward. As a result, even at the current rate of \$55, the PMC is expected to result in an extra \$155 million per year every year over the forward estimates.¹²

Concerns about the effect of the PMC increase on the aviation and tourism sectors

4.12 Various aviation and tourism organisations argued the higher PMC would damage Australia's aviation sector and visitor economy. For example, Qantas advised

7 American Airlines, *Submission 53*, p. 1.

8 Board of Airline Representatives of Australia, *Submission 21*, p. 4.

9 Cruise Lines International Association Australasia, *Submission 46*, p. 1.

10 Association of Asia Pacific Airlines, *Submission 42*, pp. 1–2.

11 Australian Federation of Travel Agents, *Submission 22*, pp. 6–7.

12 Australian Federation of Travel Agents, *Submission 22*, p. 5.

that it was 'strongly opposed' to the PMC increase, which it suggested was 'inconsistent with the Government's objective of strengthening the Australian economy'. Qantas further argued that the PMC increase would have a disproportionate impact on Australian airlines:

In an intensely competitive aviation market where airlines are often 'price takers', the hypothesis that the proposed increase can simply flow down to passengers via increases in airfares does not hold true, as the 'carbon tax' experience demonstrated. For example, modelling commissioned in 2015 on a proposed \$6 levy to fund Western Sydney Airport demonstrated that 50 per cent of that cost would have been unrecoverable for Qantas and 53 per cent for Jetstar. Over the last 12 months, competition has intensified on routes to and from Australia due to a significant increase in airline capacity; as a result, the 2015 analysis is considered conservative in the context of the proposed increase to [the] PMC.¹³

4.13 The Northern Territory Government advised that it opposed the increase in the PMC increase, and suggested the increase was particularly problematic in terms of its efforts to promote short-haul international routes out of Darwin.¹⁴

4.14 Noting that it had long advocated freezing the PMC at its current level, AFTA submitted that the PMC 'represents a significant fixed cost in a highly volatile market which affects demand for travel to and from Australia'.¹⁵ AFTA argued that the proposed increase in the PMC, 'in extremely tight operating conditions acts to further erode any economic growth opportunities for Australian travel agents'.¹⁶

4.15 Mr Jayson Westbury, Chief Executive of AFTA, also argued that an increase to the PMC would place an additional burden on Australian families and could detrimentally affect the economic matrix on which the success of the tourism industry relies:

This is a further burden on hardworking Aussie families who save hard to take their overseas holiday. It is a rite of passage that should be encouraged as, without a robust outbound travel industry, the inbound industry does not work. Planes need to be full both ways. Cruise ships will not come to Australia if Australians are not part of the consumer mix. It is an important economic matrix that creates success for Australia and its tourism industry, which will be an important industry in the future. The more the government takes in taxes from the process that lets the matrix work successfully means the more margins in this business will be very small and very tight.¹⁷

13 Qantas, *Submission 48*, p. 2.

14 Northern Territory Government, *Submission 50*, p. 1.

15 Australian Federation of Travel Agents, *Submission 22*, p. 4.

16 Australian Federation of Travel Agents, *Submission 22*, p. 4.

17 Mr Jayson Westbury, Chief Executive, Australian Federation of Travel Agents, *Proof Committee Hansard*, 26 October 2016, p. 3.

4.16 ATEC was very supportive of the measures in the reform package intended to grow the WHM market (including measures not in the bills, such as increase in the age limit for WHM visas from 30 to 35, the planned \$10 million Tourism Australian promotional campaign, and so on). However, ATEC submitted that the proposed increase in the PMC:

...puts all the other growth stimulating measures at risk. By levying the travelling population 9% more in tax, on top of existing visa fees and other charges associated with visiting Australia, you risk a contraction in visitor arrivals, with travellers potentially opting for an alternative destination. It is counter-productive and sends the clear message to travellers that Australia is using tourism as the cash cow of the Australian economy.¹⁸

4.17 Noting that many other countries were reducing or removing departure taxes, the TTF submitted:

Within a competitive tourism environment, governments should be looking at policies that facilitate inbound and outbound travel; and further enhance the overall visitor experience. Travel taxes achieve just the opposite: it will have a real effect on travellers at the decision-making stage of a journey which will in turn impact the tourism and travel industries.¹⁹

4.18 IATA suggested that the PMC increase would lead to a reduction in demand equivalent to 30,000 fewer international passenger return journeys each year (where an arrival and departure count as one trip). IATA referred to modelling it had undertaken that showed increasing the PMC would:

...create significant harm for consumers in the form of higher fares; and significant harm for Australian exporters through higher travel costs and reduced competitiveness; and lastly will act as a brake on the Australian aviation sector. We estimate that the reduction in aviation-related Gross Value Added (GVA) compared with a scenario where the PMC were abolished could total AUD375 million with 3,800 fewer jobs supported.²⁰

4.19 The TTF also referred to IATA modelling showing the sensitivity of passenger numbers, and holiday visitors in particular, to ticket price increases. According to this modelling, every price increase of 10 per cent would generate an estimated five to seven per cent decline in the number of leisure passengers travelling globally.²¹

18 Australian Tourism Export Council (ATEC), *Submission 45*, p. 4. ATEC reiterated this line of argument in its appearance before the committee. Mr Peter Shelley, Managing Director, Australian Tourism Export Council, *Proof Committee Hansard*, 2 November 2016, p. 21.

19 Tourism and Transport Forum Australia (TTF), *Submission 20*, pp. 4–5.

20 International Air Transport Association, *Submission 8*, pp. 1–2.

21 Tourism and Transport Forum Australia (TTF), *Submission 20*, p. 3.

4.20 According to IATA, at \$60 the PMC would represent more than 9 per cent of the cost of return fare on a Trans-Tasman route and 5 per cent on routes between Australia and the rest of Asia.²²

4.21 A number of witnesses highlighted the sensitivity of Trans-Tasman routes in particular to a higher PMC. For example, Tourism Industry Aotearoa reported that the PMC on Trans-Tasman flights was 'already the highest border tax in the world for short-haul flights (under 2,000 miles)', and the higher PMC would further increase barriers to Trans-Tasman travel.²³ The TTF also highlighted the proportionally high cost of the PMC for many Trans-Tasman flights:

The impact is even greater on heavily discounted fares, with some one-way tickets on trans-Tasman routes as low as \$130 at certain times of the year. The current PMC of \$55 comprises 42 per cent of such a fare, and the proposed PMC of \$60 would represent 46 per cent.²⁴

4.22 Other witnesses told the committee that the increase in the PMC was a secondary issue, and that they were unconcerned about its inclusion in the reform package. For example, Mr Kevin Byrne from Advance Cairns told the committee that he had not heard concerns from his members, and businesses generally seemed 'pretty ambivalent' about the proposal. He offered that:

...fares are so competitive now that it will be absorbed and I don't think people will really notice it. We also respect the fact that the government of the day has a requirement to essentially balance the books. We are all in business ourselves. So we do not have an opinion either way. I don't think it is really going to have a dramatic material effect on the visitation of Cairns.²⁵

4.23 Similarly, Mr Ben Woodward from the CaPTA Group, a family owned tourism company in Tropical North Queensland, told the committee that he did not expect the 'relatively small increase' in the PMC to have 'much of a detrimental impact on the [tourism] industry'.²⁶

4.24 Treasury advised the committee that it had not modelled the economic impact of the PMC increase, stating that its macro-economic modelling function did not

22 International Air Transport Association, *Submission 8*, p. 2.

23 Tourism Industry Aotearoa, *Submission 15*, p. 2.

24 Tourism and Transport Forum Australia (TTF), *Submission 20*, p. 3.

25 Mr Kevin Michael Byrne, Chief Executive Officer, Advance Cairns, *Proof Committee Hansard*, 31 October 2016, p. 2.

26 Mr Ben Woodward, Director, Sales and Marketing, CaPTA Group, *Proof Committee Hansard*, 31 October 2016, p. 7.

extend to modelling changes such as a small change to a price such as the proposed \$5 PMC increase.²⁷

Consultation

4.25 Some witnesses expressed concern about an apparent lack of consultation regarding the proposed PMC increase. For example, AFTA submitted:

The announcement of this increase by the Government has not followed any consultation nor has the modelling of the potential impacts been released. This is of great concern for the travel and tourism industry.²⁸

4.26 Representatives from the tourism industry also voiced concerns that the proposed increase to the PMC was not raised during the government's review process into the WHM program. For example, Mr Westbury from AFTA commented:

Within the package review process that was undertaken, I think—correct me if I am wrong—there were some 1,700 submissions made and not one mentioned the PMC. During the consultations, which we all took part in, with the consultant, not once at any of those dialogues was the PMC mentioned to any of us as a potential way of the government topping up the package.²⁹

4.27 Qantas submitted that given the lack of industry consultation on increasing the PMC, it may be that the government had not fully considered its impact on Australian airlines and passengers.³⁰ Similarly, BARA described the lack of consultation on the PMC increase as 'extremely disappointing'.³¹

4.28 Australian Chamber – Tourism also highlighted a lack of consultation or proper assessment of the impact of the increase in the PMC on Australia's visitor economy. It recommended that any future proposals to increase the PMC should be made following consultation with the sector and a proper assessment of its impact.³²

4.29 Mr Martin Ferguson, representing Tourism Accommodation Australia, noted that in his experience—which included being the Minister for Tourism between December 2007 and March 2013—increases in the PMC did not affect passenger

27 Mr Robert Ewing, Acting Division Head, Tax Analysis Division, Revenue Group, Treasury, *Proof Committee Hansard*, 26 October 2016, p. 24.

28 Australian Federation of Travel Agents, *Submission 22*, p. 5.

29 Mr Jayson Westbury, Chief Executive, Australian Federation of Travel Agents, *Proof Committee Hansard*, 26 October 2016, p. 6.

30 Qantas, *Submission 48*, p. 2.

31 Board of Airline Representatives of Australia, *Submission 21*, p. 1.

32 Australian Chamber – Tourism, *Submission 19*, p. 4.

numbers. Nonetheless, he emphasised the need for government to consult with the industry before considering future changes to the PMC.³³

4.30 Treasury confirmed that it had undertaken no departmental level consultations on the changes to the PMC.³⁴

Inclusion of the PMC increase within the WHM reform package

4.31 Some witnesses questioned the logic of including the PMC increase as part of the WHM reform package. Mr Gerard Bell noted that the overwhelming majority of passengers leaving Australia and subject to the increased PMC were not WHMs. He suggested that it was inequitable that these passengers should have to face the new charge 'just so 417/462 Visa holders have a further incentive to seek temporary employment in Australia whilst on Holiday'.³⁵

4.32 When questioned by the committee regarding the appropriateness of the PMC increase being included as part of the WHM reform package, Chief Executive Officer of TTF, Mrs Margy Osmond, advised that 'absolutely the two things should be separated'.³⁶ Mrs Osmond further explained:

I think the other issue here is that when the negotiations were held over the backpacker tax piece PMC was never mentioned. So, to suggest that it has to be part of the package is, I think, wrong. We know that the piece will pay for itself. If the argument for increasing the PMC is wholly and solely to fill a gap, they do not need to increase it, because the package pays for itself. So, to me, it is a no-sum game. If you can pay for what it is that you needed to pay for within the reform package, why do you need to increase the PMC?³⁷

4.33 TTF advised that it had engaged KPMG to review the assumptions underlying the reform package, and to consider if the PMC increase was necessary to ensure the reform package was revenue neutral (when compared against the proposed Budget 2015-16 changes). TTF reported that KPMG found that, based on average WHM earnings, a tax rate of 19 per cent would generate tax and superannuation revenues of \$864.5 million between the 2016-17 and 2019-20 financial years, without the need for any increase in the PMC. TTF highlighted KPMG's finding that, in KPMG's words:

33 Mr Martin Ferguson, Chair, Tourism Accommodation Australia, *Proof Committee Hansard*, 2 November 2016, p. 34.

34 Mrs Marisa Purvis-Smith, Division Head, Individuals and Indirect Tax Division, Treasury, *Proof Committee Hansard*, 26 October 2016, p. 27.

35 Mr Gerard Bell, *Submission 5*, p. 1.

36 Mrs Margy Osmond, Chief Executive Officer, Tourism Transport Forum, *Proof Committee Hansard*, 26 October 2016, p. 7.

37 Mrs Margy Osmond, Chief Executive Officer, Tourism Transport Forum, *Proof Committee Hansard*, 26 October 2016, p. 16.

The inclusion of the increase in the PMC in the revised WHM policy appears to be incongruous with the remainder of the package. Under reasonable assumptions about the number of WHMs and average income per WHM it is not necessary to increase the PMC to generate tax revenue from the package that is greater than that reported in the 2015-16 Budget.³⁸

4.34 Australian Chamber – Tourism also argued that an increase in the PMC charge was not required to meet the government's revenue targets.³⁹

4.35 While some witnesses questioned whether the PMC increase was required to make the reform package revenue neutral, Treasury confirmed that this was the case. Mr Robert Ewing, representing Treasury, advised the committee that while he could not speak to KPMG's modelling, 'the estimates and the costings that we came up with are our best professional judgement of the changes to revenue and expenses as a result of this package'.⁴⁰

4.36 Treasury confirmed this advice in a subsequent written submission provided to the committee. Reiterating that Treasury stood by its estimates of the various elements of the reform package, Treasury noted that other models—including modelling from KPMG and modelling undertaken by Lateral Economics on behalf of IATA and the Australian Chamber of Commerce and Industry—had arrived at different outcomes because they used more optimistic assumptions:

By definition, if Treasury had made different assumptions then different estimates would have been generated. The KPMG and Lateral Economics reports simply illustrate this point, as they adopt more optimistic assumptions and so produce larger estimates.

However, as stated earlier, Treasury's view is that its revenue estimates are appropriate. Reducing the first tax rate for working holidaymakers from 32.5 per cent to 19 per cent involves some revenue cost, meaning that the revenue from the other elements of the reform package is therefore necessary to ensure the package of changes announced by the Treasurer is revenue-neutral overall.⁴¹

Committee view

4.37 The committee acknowledges concerns expressed during the inquiry about the \$5 increase to the PMC. At the same time, the committee notes that a range of tourism operators and bodies advised the committee that they did not anticipate this relatively small increase would have a material impact on visitor numbers or on their businesses.

38 Tourism and Transport Forum Australia (TTF), *Submission 20*, p. 6.

39 Australian Chamber – Tourism, *Submission 19*, p. 4.

40 Mr Robert Ewing, Acting Division Head, Tax Analysis Division, Revenue Group, Treasury, *Proof Committee Hansard*, 26 October 2016, p. 24.

41 Treasury, *Submission 55*, p. 1.

4.38 This is, the committee notes, the first time the PMC has been increased since 2012, and the increase is broadly consistent with the increase in the CPI since that time. The committee is also satisfied that the PMC increase is required to ensure that the WHM reform package remains revenue neutral.

Recommendation 3

4.39 The committee recommends that the bill be passed.

**Senator Jane Hume
Chair**

Labor Senators' Dissenting Report

Background and Overview

1.1 This 'reform' package was intended to fix problems that were created entirely by the Government itself. However, the Government has failed to develop a package that will properly support the economy.

1.2 This committee inquiry has shown that the Government has taken an approach that is the complete opposite of good policy process. 'Shambles' would understate the chaotic nature of the Government's style, and this policy has been a fiasco from the beginning, nearly one and a half years ago. Little to no consultation has been completed, no thought was given to impacts on the economy and uncertainty has been allowed to fester.

1.3 Labor Senators stand for a strong policy development process and responsible economic management. Labor Senators have achieved more in four weeks of review than what the Government completed in the last 18 months.

1.4 Labor originally gave the first version of the Backpacker Tax our qualified support after it was announced – the Shadow Treasurer said this at the Press Club after the 2015 Budget.

1.5 The Shadow Treasurer said at the time that while the measure was not exactly what we would have done in Government, 'we trust the government has thought through all the implications and has conducted adequate consultations'.

1.6 Turns out they hadn't. The referral of the bills to the Senate Economics Legislation Committee for an inquiry was therefore a fair and reasonable position to take.

1.7 The Senate Economics Legislation Committee has reported into this package of legislation. Through the inquiry process, it was found that:

- the Passenger Movement Charge increase was introduced with no consultation from the tourism or agriculture industries;
- there has been little to no economic modelling or analysis of the likely economic impact of the tax measures;
- the National Farmers' Federation and other key stakeholders groups report there has been a decline of up to 40 to 90 percent in backpacker numbers; and
- any labour shortages caused by a drop off in backpackers will hit rural and regional Australia harder than our capital cities.

Timeline of events

1.8 Labor Senators believe that a recount of key events in this saga should be stated for the record.

1.9 This debacle started on 12 May 2015 when The Hon Joe Hockey MP, as Treasurer, announced with no industry consultation¹ that 'anyone on a working holiday in Australia will have to pay tax from their first dollar earned, rather than enjoying a tax-free threshold of nearly \$20 000. This will save the Budget \$540 million'. Mr Hockey said the measure was one of several ways the government was promoting 'fairness and a level playing field'.² It was confirmed that the new taxation rate from the first dollar earned would be 32.5%.³

1.10 On 13 May 2015, The Hon Barnaby Joyce MP defended the 32.5% rate and the removal of the tax-free threshold, stating that 'Well I think the vast majority come here because we still have a great wage rate. Australians, Leigh, have to work the full year to get the tax-free threshold. It does seem a little bit incongruous that someone can work four months, five months, six months and get a tax-free threshold because that actually puts them at a strategic advantage on two levels to their other Australian workers'.⁴

1.11 Despite the calls that the measures were 'fair', 'created a level playing field' and would be competitive because of Australia's 'great wage rate', on 2 February 2016 the National Farmers' Federation launches its petition.⁵ The petition states that:

Backpackers are very important to our local economy. They fill critical labour needs at peak times, and bring new life into rural communities. If they have to pay 32.5 cents tax in every dollar, they won't come anymore... It's not a fair tax, and it's not a sound economic decision... Consult with the community instead as part of the broader Tax Reform agenda.

1.12 Less than two weeks later, on 11 February 2016, George Christensen MP states that 'I will support the Bowen Gumlu Growers in their push for a 15% flat rate of tax for backpackers'.⁶

1.13 On 23 and 24 February 2016, Melissa Price MP and Andrew Broad MP add to concerns over the package. Ms Price is quoted as saying that '[t]he proposal of 32.5 per cent as a flat rate has I think gone too far ... farmers are concerned and

1 <http://www.abc.net.au/news/2015-05-14/backpacker-tax-grab-hurts-rural-towns-and-farmers/6469910>

2 <http://www.budget.gov.au/2015-16/content/speech/html/speech.htm>

3 http://www.budget.gov.au/2015-16/content/bp2/html/bp2_revenue-07.htm

4 <http://www.abc.net.au/7.30/content/2015/s4235294.htm>

5 <http://www.nff.org.au/read/5182/petition-launched-against-proposed-backpackers-tax.html>

6 <http://www.georgechristensen.com.au/other-worker-options-in-horticulture/>

obviously it's their livelihood so we have to take that seriously'.⁷ Mr Broad stated that '[t]here is no advantage of having a tax rate so high that people pull up stumps and go offshore, and then we don't collect the money anyway'.⁸

1.14 On 3 March 2016, Treasurer the Hon Scott Morrison MP states that there will be a review of measures.⁹ Confusion continued about the nature of the review:

There was confusion this week after Agriculture Minister Barnaby Joyce said a review was underway headed by committee chairman and Queensland MP Bert van Manen'. 'He will report back to us and we can act on that report', he said. However, Mr van Manen said an inquiry had yet to be referred to the committee.

1.15 On 16 March 2016, the Government announces its review and admits its policy position is not fair and not competitive. Tourism Minister Senator Richard Colbeck told the ABC he would head a cross-departmental review of the tax:

Legitimate concerns have been raised about the impact the so called backpacker tax would have on our global competitiveness as a backpacker destination... We have therefore decided that the proposed tax arrangements require further discussions to ensure Australia does not lose market share in backpacker visitation.¹⁰

1.16 On 9 May 2016, Ken O'Dowd MP says about the review 'that gives us eight months to review it... hopefully we will come to some common ground (with Treasurer Scott Morrison) where the tax is not so savage'.¹¹ 'Not so savage' is what passes for good government now.

1.17 On 17 May 2016, another review is announced and a six month delay to announced measures is issued:

The Turnbull Government today announced it will undertake a review of the broad range of issues affecting the supply and taxation of working holiday maker 417 and 462 visas, the Minister for Small Business and Assistant Treasurer, Kelly O'Dwyer MP said.¹²

1.18 On 15 June 2016, it is reported that:

7 <http://www.abc.net.au/news/2016-02-23/govt-considering-inquiry-into-backpacker-tax-liberal-mp-says/7192818>

8 <http://www.abc.net.au/news/2016-02-23/broad-backs-rethink-on-backpacker-tax/7193912>

9 <http://www.weeklytimesnow.com.au/news/politics/scott-morrison-to-work-through-backpacker-tax-concerns/news-story/348ecf7b2b60c978166d44dede33ea91>

10 <http://www.abc.net.au/news/2016-03-16/federal-government-to-review-controversial-backpacker-tax/7250674>

11 <http://www.centraltelegraph.com.au/news/backpacker-tax-delayed-odowd/3017691/>

12 <https://www.liberal.org.au/latest-news/2016/05/17/working-holiday-maker-visa-review>

In WA, Rick Wilson the O'Connor Liberal MP has accused his Nationals' electoral rival John Hassell of putting election sloganeering ahead of details and responsible public policy. Mr Wilson said Mr Hassell's had repeatedly pledged 'No Backpacker Tax' but the election sloganeering showed how little his rival understood economic management, the people of O'Connor and his own political party.¹³

1.19 In addition, the same article claims that Ken O'Dowd MP is seeking to fight the Federal Government:

While in Canberra, Flynn (Queensland) MP Ken O'Dowd has vowed to fight the Federal Government's proposed changes to working holidaymakers' tax arrangements – the so-called 'backpacker tax' – after Treasurer Scott Morrison gave the National Party six months to come up with the \$540 million that would be raised by the changes using other means.

1.20 On 12 July 2016, not content with the review, Michelle Landry MP calls for the backpacker tax to be dropped 'Ms Landry, who sits in the party room as a member of the Queensland LNP, said she wanted the backpacker tax removed and expected the issue would be raised today.'¹⁴

1.21 On 18 September, George Christensen MP threatens to walk out of the LNP over the backpacker tax

The Queensland MP has revealed he could not support a policy that endangered the livelihoods of farmers, regional areas and the tourist industry... 'I believe the Government is going to axe the backpacker tax and put in place arrangements that farmers can accept,' he said.¹⁵

1.22 On 27 September 2016, the 'compromise' package that this committee has considered is announced.¹⁶ The Hon Barnaby Joyce MP issued a Media Release stating a 'Win for farmers with proposed backpacker tax rate cut'. He claimed that:

The Nationals, including Assistant Minister Luke Hartsuyker and our Senators and Members of Parliament have been fearless champions on behalf of their regions, their agricultural stakeholders and common sense.¹⁷

13 <http://www.thebyte.com.au/liberals-nationals-fighting-over-the-backpacker-tax-election-issue/>

14 <http://www.abc.net.au/news/2016-07-12/nationals-push-to-kill-backpacker-tax-after-election-result/7589458>

15 <http://www.couriermail.com.au/news/queensland/george-christensen-threatens-to-walk-out-on-turnbull-government-over-backpacker-tax/news-story/47b86b68b6a926d834d5caa8bf24e938>

16 <http://theconversation.com/backpacker-tax-to-be-19-but-departure-tax-will-rise-5-in-compromise-package-66129>

17 <http://minister.agriculture.gov.au/joyce/Pages/Media-Releases/backpacker-tax-rate-cut.aspx>

1.23 The Minister's arrogance is bewildering but not surprising. The Minister was in the Cabinet room when the 32.5% was first approved, and defended the measure after its announcement in the 2015-16 Budget.

1.24 We also now know why the Minister was a fearless advocate for no further scrutiny of the legislation.

1.25 Rather than welcoming a Senate inquiry the Minister ran his usual retail style politics, ignoring evidence provided that the first slated tax rate at 32.5 per cent and then revised to 19 per cent will result in fewer working holiday makers to pick fruit this summer. The Minister has refused to address the evidence provided and the best he has come up with is 'for farmers worried about the uncertainty over the controversial backpacker tax, ring Bill Shorten'.

1.26 George Christensen MP also announces on this day that the revised package is 'a win for our regional economy'.

1.27 Senator Ian MacDonald releases a statement, and shows that he was angry about the previous policy position and still does not support the current position:

Northern Australian Liberal National Senator Ian Macdonald said he was pleased that the Executive had listened to representations from Warren Entsch, George Christensen and himself.

'But I am still very annoyed that we had to go through an election with the last proposal which cost us support on polling day'.

'I am angry that relevant Ministers did not understand the impact of the Backpackers' Tax on rural industries and the tourism/hospitality industry, particularly in Queensland.'

'I am also disappointed about the need to increase the passenger movement charge to pay for these new arrangements.'¹⁸

1.28 These statements show that:

- The original policy position was poorly designed, with no thought given to economic impacts on regional communities or the competitiveness of the taxation package for working holiday makers;
- The Hon Barnaby Joyce MP defended the original position, describing it as fair, creating a level playing field and retaining competitiveness when this package was none of these things;
- George Christensen MP is running policy process, with his comments on 11 February 2016 starting the outspoken commentary against the measures;

18 <http://www.senatormacdonald.org/media/media-releases/unfortunate-backpacker-tax-now-modified/>

- Coalition MPs used the backpacker tax as a political tool during the election, 'taking the fight' to their own Government while the tourism and agricultural industries wallowed in uncertainty;
- Two reviews were conducted, and yet Government MPs didn't trust their own review processes and instead called for the tax to be removed before the reviews were completed;
- George Christensen MP is claiming the current package as a win, when no economic analysis has been conducted and witnesses have spoken to the potential negative impacts of the current package; and
- Other Government MPs still don't approve of these bills.

1.29 The need for a Senate Committee review is glaringly obvious when such a shambolic policy process was taken.

Outcomes of the Committee Inquiry

1.30 Labor Senators used the committee process to listen to stakeholders and form a calm, considered and decisive policy position. Labor Senators reviewed all the measures as a whole and scrutinised the quality and validity of information presented to the committee.

1.31 Labor Senators understand that these measures disproportionately affect regional communities, and that these communities will bear the brunt of the negative consequences in this package. That is why hearings were conducted in regional centres such as Cairns and Launceston, and to hear directly from farmers and tourism operators on the ground.

1.32 It is also important to note that the authors of the Deloitte report commissioned by the Government prior to the announcement of the legislative package acknowledged that:

Deloitte has not undertaken any additional research or analysis, and the information contained in this report is reflected as it has been provided by the stakeholders engaged through this process. Deloitte has also not reviewed the quality or validity of the information presented to us.

1.33 Labor Senators were disappointed to find out that the current package was agreed on by Cabinet with no modelling or economic advice to advise the Government of potential negative impacts of these measures. It is particularly concerning that no detailed understanding of the link between taxation rates and backpacker arrival numbers was developed.

1.34 One clear case of the failure to engage in good policy process was the comments made by Ms Mackenzie, Chief Advocate, Growcom at the Cairns hearing:

Ms Mackenzie: ... I am deeply disappointed that there have been revelations that there has been no economic modelling on the impact of this. It almost feels insulting that we are sitting here still debating this, and

we still have not come to a resolution. All I can ask, as the number 1 point, is please have the 32½ per cent off the table and an internationally competitive tax rate on the table by 1 January.

Senator KETTER: Ms Mackenzie, following up on that last point you made—that you were deeply disappointed to hear there was no economic modelling—I note that your CEO's letter to the committee dated 21 October stated: 'This bill will deliver a 19 per cent tax rate for working holiday-makers immediately upon royal assent. Growcom supports this bill on the assumption that the modelling clearly shows that there will not be a significant drop off in backpacker numbers.' You have just acknowledged that we have heard that there has not been any economic modelling. How does this impact on your assessment to support this measure?

Ms Mackenzie: It highlights our ongoing frustration that we are expected to put forward our support or disapproval for certain policy positions with absolutely no evidence or capacity to support that. We are constantly being asked, 'What is the correct rate?' We are an agricultural policy organisation. I can tell you what the implications of a 32½ per cent are, but determining the correct rate is very difficult for us to do. The revelation that there has been no economic modelling is very concerning. We did have a look at the Department of Agriculture's submission, and, based on the assumptions that they have made, it does appear that 19 per cent is internationally competitive. I have had conversations with growers around Queensland, and I would say that there is a disparity in terms of whether the 19 per cent is the number that they support. When you consider that we have a 15 per cent rate for the Seasonal Workers Program and a 13 per cent rate for the Horticulture Award, it starts getting very confusing with all these rates. Fifteen per cent is broadly supported by a number of growers, but most of them say, 'Look, if you can get 19 across the line by 1 January we'll take it, because we need those pickers.'

Senator KETTER: On this issue of modelling, in our hearings last week we had the opportunity to discuss this matter with Treasury officials. They admitted to us that although they were not modelling the impact of the 19 per cent, they had made certain assumptions. One of the assumptions was about the reduction in the number of working holiday-makers that you would expect from a higher tax rate. One of the very assumptions that underpins the costings here does indicate that they do predict a reduction in the number of working holiday-makers. More surprisingly, they were not able to put a figure on that reduction. But, nevertheless, it is part of a number of assumptions that they made. Does that surprise you—that we are operating on that basis?

Ms Mackenzie: Once again, I will use the word disappointment. We would have hoped that there would have been a bit more transparency around

some of the assumptions, and it concerns us that the ongoing success of our industry has been overlooked, it seems, in these debates.¹⁹

1.35 In addition, no consultation was conducted with relations to the Passenger Movement Charge.

Senator KETTER: Mrs Osmond, you have said that, as far as your organisation is concerned, the emergence of the PMC change was a shock. I just want to double-check with all members of the panel here today that there has been no consultation with you.

Mr Hart: No, none.

Mr Westbury: Also, within the package review process that was undertaken, I think—correct me if I am wrong—there were some 1,700 submissions made and not one mentioned the PMC. During the consultations, which we all took part in, with the consultant, not once at any of those dialogues was the PMC mentioned to any of us as a potential way of the government topping up the package.

...

Senator KETTER: Mr Lorigan, in this modelling that you talk about my understanding is that you have said that holiday visitors, as distinct from those travelling to visit friends or relatives, are most sensitive to departure taxes such as the PMC, with every price increase of 10 per cent estimated to generate a decline of five to seven per cent in the number of leisure passengers travelling globally. You can confirm that that is your finding?

Mr Lorigan : This is our modelling. We base this on Oxford Economics, which is our econometrics consultant.

Senator KETTER: And have you made the government aware of your modelling?

Mr Lorigan: Back in 2012, when we had the former increase, we made a submission along similar lines, and of course through the committee we hope to make the government aware today as well.

Mr Westbury: I might just add that I think this just demonstrates the fact that the consultation process has really failed on this occasion. You can see from those colleagues present here today that there is a lot of information that would have been able to be provided to the government in informing them on this decision if we had been given the proper opportunity. When the review took place for the Working Holiday Maker Reform package, the PMC was not on the agenda. Therefore, there was no purpose to submit this

sort of modelling at that time, if you are talking specifically around the PMC modelling that was done.²⁰

1.36 The introduction of the PMC was only one example where the Government chose not to undertake any further consultation with stakeholders post their announcement on 27 September 2016 regardless of the fact that the Government had introduced new measures previously not put forward to stakeholders.

1.37 Adding insult to injury, this inquiry process has also revealed that the Government is already spruiking the 19 per cent tax rate in the UK, again regardless of the fact that this legislation has not passed the Parliament.

1.38 Labor Senators listened to a number of farmers and tourism bodies who described the negative impacts of the current uncertainty over the 'backpacker tax'. While the Government is quick to take ownership of the \$10m campaign to promote Australia as a destination for backpackers, Labor Senators would like the Government to likewise take responsibility for the millions of dollars of economic damage already inflicted on the agriculture and tourism sectors by their lack of action over the last 18 months.

1.39 One story of the impacts of the Government's actions was given during the Canberra hearing:

Mr Finlay: I was on a mango farm at Humpty Doo, in the Northern Territory, in February this year, and that mango farm left 15 per cent of their crop on their trees last year; they did not have enough labour. They also were planning to plant another 40,000 trees—they have the water, they have the infrastructure to plant the trees—to double the size of their farm, and they would not go ahead with that work because they know they cannot get a labour force at the current rate.²¹

1.40 Labor Senators also heard from tourism bodies in Cairns about the risks that a decline in backpacker numbers would have on local businesses and local permanent employees:

Senator KETTER: Ms Bennett, I was quite alarmed to hear that some of the businesses were forced to close their doors in July. Can you elaborate on that?

20

<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;db=COMMITTEES;id=committees%2Fcommsen%2Fe47044c8-6238-494c-8fd6-a8c42ef76eeb%2F0001;query=Id%3A%22committees%2Fcommsen%2Fe47044c8-6238-494c-8fd6-a8c42ef76eeb%2F0000%22>

21

<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;db=COMMITTEES;id=committees%2Fcommsen%2Fe47044c8-6238-494c-8fd6-a8c42ef76eeb%2F0002;query=Id%3A%22committees%2Fcommsen%2Fe47044c8-6238-494c-8fd6-a8c42ef76eeb%2F0000%22>

Ms Bennett: As was I. This was, again, through my discussions with a backpacker operator last week. The reality was they did not have the staff to fill those roles. Each business has a year-round, permanent population of staff and so during our peak period, which is from June through to October, it does rely on backpackers or working-holiday visa workers to come into the region and fill that peak capacity. As a result of not having the staff—and I believe it was mostly hairdressers, but chefs in particular and wait staff as well have been a real challenge—some businesses have been forced to close for two days and then have their permanent staff on a five-day rotation.

Senator KETTER: One thing I was not fully appreciative of—and it is a point you have made—is the importance of backpackers in ensuring the long-term security of domestic jobs. Could you elaborate on that, because I think it is a rather different take.

Ms Bennett: If we looked at occupancy in our region, we would sit in the quieter months at between, say, 40 and 60 per cent. In our peak period we are up around 90 per cent. To be able to cater for that growth, businesses will increase their workforce using working-holiday visa workers to supplement that. We simply do not have the population base in the Douglas shire to be able to fill those roles. In actual fact, the working-holiday visa system ensures the long-term stability for our permanent residents.²²

1.41 It appears that due to the Government's complete shambolic handling of their ill-conceived backpacker tax many representative bodies initially supported the Government's position, desperately seeking certainty for the sector.

1.42 Unfortunately, the NFF took the approach to quickly support the Government's rate of 19 per cent rather than applying pressure on the Government to provide better policy regarding the backpacker tax.

1.43 However, during the Senate Economics Legislation Committee hearings the NFF stated that 'if the parliament supports 10.5 per cent we will support it.'

1.44 The NFF also provided evidence that based on feedback from their members that there has been between a 40 to 90 per cent reduction in backpacker numbers.

1.45 This inquiry has exposed the Minister for Agriculture's complete lack of understanding or genuine concern as to what the impact of the higher tax rate will have on rural and regional communities.

Specific Measures

1.46 Labor Senators have considered the feedback provided in detail and have determined the following amendments to the Government's package would be appropriate in light of the evidence of the negative impact of the tax as currently designed:

- Amend the backpacker tax from 19 per cent to 10.5 per cent; and
- Oppose the Passenger Movement Charge increase.

1.47 The reduction of the backpacker tax to 10.5 per cent mirrors New Zealand's tax rate, allowing Australia to have a greater competitive advantage in attracting future backpackers.

1.48 The 10.5 per cent rate also ensures that Australia can position itself to be more competitive than Canada which has the geographical advantage of being closer to Europe, the UK and the USA.

1.49 Labor Senators recommend these amendments to ensure that our agriculture and tourism sectors can confidently compete for travelling backpackers who are also considering travelling to New Zealand, Canada or Australia.

1.50 It is critical that Australia is able to compete against New Zealand, Canada and other countries for travelling backpackers.

1.51 The NFF provided evidence in their submission to the Government's own review which clearly indicated the importance of Australia maintaining its competitiveness in attracting backpackers stating that:

In a survey of 535 horticultural growers in February 2016, 65 per cent of respondents indicated difficulty finding workers in their local areas. The overwhelming majority of working holiday makers who undertake regional agricultural work do so because it gives them access to a second year visa – without this critical incentive, many will choose other forms of work and miss out on the unique experience of living and working on farms and contributing to local and regional economies.²³

1.52 The problem with the 'backpacker tax' is that it will do just that. Working holiday makers will no longer see the value in regional agricultural work – and they won't come. This will have a dampening effect on rural and regional Australia – in an environment where the number of working holiday makers is already declining on average by around 10-12 per cent each year.

1.53 We need to encourage, not deter, working holiday makers to come and work on the farm, and we need to do this as soon as possible. Working holiday makers are often employed as peak labour and help businesses profit in high demand peak seasons. Working Holiday Makers in this context help to keep the doors of businesses open and help to secure long-term job security for the permanent domestic employees.

1.54 For those who argue that the 10.5 per cent rate will put Australian workers at a disadvantage, it is important to note that Australians will not pay any tax until they earn over \$18,000 dollars.

1.55 Current figures provided by Taxback.com states that working holiday makers (backpackers) earn an estimated average of \$15,088 each year while in Australia and spend approximately the same amount in Australia on travel, accommodation and tourist experiences.

Conclusion

1.56 The Labor party has listened to our farmers and understands the need to fight for Australia's competitiveness. The recommended amendments will ensure Australia's agriculture and tourism sectors are able to attract backpackers and maintain the viability of their businesses.

1.57 The recommendations in this report will give the certainty that the tourism and agricultural industries are calling for while maintaining Australia's competitiveness as a destination for working holiday makers.

1.58 This inquiry has conclusively shown the shambles of a policy process that the Government has taken. The lack of consultation on the full suite of measures was astounding, and the lack of understanding of negative economic impacts in our regional and rural communities was deeply disappointing.

Recommendation 1

1.59 To amend the Income Tax Rates Amendment (Working Holiday Maker Reform) Bill 2016 and lower the proposed tax rate for working holiday makers from 19 per cent to 10.5 per cent.

Recommendation 2

1.60 To oppose the Passenger Movement Charge Amendment Bill 2016.

Senator Chris Ketter
Deputy Chair

Senator Jenny McAllister
Senator for New South Wales

Senator Catryna Bilyk
Senator for Tasmania

Senator Helen Polley
Senator for Tasmania

Australian Greens' Dissenting Report

Taxation for working holiday makers

1.1 The government's proposed changes to the tax arrangements for working holiday makers—the backpacker tax—has been a fiasco. The inept and misguided handling is the result of a government that is obsessed with penny-pinching revenue measures, while at the same time ignoring risks to agricultural producers and the opportunity for real and lasting structural reform that would make Australia fairer and more competitive.

1.2 The government first proposed an 'increase' in the backpacker tax in the 2015–16 Budget. This was done without any meaningful consultation with the agricultural industry or clear policy intent.

1.3 The government then did nothing about the backpacker tax for the duration of 2015–16; and the tax was conspicuously absent from the 2016–17 Budget.

1.4 Under pressure during the election campaign about exactly what the status of the backpacker tax was, the government announced a review and pushed the issue off into the new parliament. After consulting with the agricultural industry second time around, the government then announced a revised backpacker tax at 19%.

1.5 The government has since been engaged in a gravity defying sales job: it is simultaneously arguing that it will reduce the tax rate for backpackers while at the same time raise more revenue. The government has discovered the holy grail of fiscal policy: a tax cut that raises revenue.

1.6 But this is an illusion. The government's assertion that the current tax rate for working holiday makers is 32.5% ignores the practicality of the current arrangements which enable many backpackers to be treated as residents for tax purposes and take advantage of the tax-free threshold.

1.7 The government's approach to this legislation has failed to address the fundamental issue of whether backpackers should be afforded access to the tax-free threshold as are Australian residents.

1.8 An effective tax rate of zero provides Australia with a competitive advantage by making Australia more attractive to backpackers, and provides an essential source of seasonal labour for the agricultural industry.

1.9 A lower tax for backpackers also means they have more money to spend as tourists. The Treasurer himself put it succinctly:

One of the great virtues of backpackers, when they come to Australia, is they leave with their pockets empty because they spend what they earn here.¹

1.10 And access to the tax-free threshold for backpackers means the ATO is not wasting time administering relatively small payments that, in some cases, would cost more to process than the revenue raised.

1.11 A tax-free threshold for backpackers is a net economic boost for Australia. Backpackers supplement the labour market and then spend the money they earn in the wider community.

1.12 Based on the collapse in numbers of working holiday makers that has already occurred because of the uncertainty around the backpacker tax, a large number of agricultural producers, and the benefit they provide to our economy, will be put at risk if this legislation passes the Senate.

1.13 In order to clear up the confusion about taxation arrangements for working holiday makers, the Greens believe differential tax rates for non-residents—provided for in a 1982 amendment to income tax laws—should be repealed. This is in accord with the principle that all workers should be afforded access to the same working conditions, regardless of their residency status.

Recommendation 1

1.14 That changes to the taxation arrangements for working holiday makers contained in these bills be opposed.

Recommendation 2

1.15 That the government introduce new legislation which would remove the existence of any possibility of a differential tax rate applying to non-resident workers while they are backpacking in Australia.

Passenger Movement Charge

1.16 As if fumbling the backpacker tax and upsetting farmers was not enough, the government managed to repeat the same mistake with the proposed increase in the Passenger Movement Charge (PMC).

1.17 The increase in the PMC was announced as an adjunct to the revised backpacker tax. Once again, this announcement came without any meaningful consultation with the sector or any clear policy intent. The result is that the government has managed to add the tourism industry to the list of the aggrieved and confused.

1 Scott Morrison, 27 September 2016, Press Conference, Canberra.

1.18 The Treasurer talks about the proposed increase in the PMC being the government 'washing its face' of the changes to the backpacker tax. But, instead, the government has managed to spread the mess it made with the backpacker tax to the tourism industry.

1.19 The PMC applies not just to backpackers, but to all other foreign tourists and all Australian residents upon departure. An increase to the PMC is indiscriminate and, at this point in time, comes without any clearly articulated policy purpose.

Recommendation 3

1.20 That the increase in the Passenger Movement Charge be opposed.

**Senator Peter Whish-Wilson
Senator for Tasmania**

Appendix 1

Submissions and additional information received

Submissions

<i>Submission Number</i>	<i>Submitter</i>
1	Australian Banana Growers' Council
2	Fruit Growers Tasmania
3	Tourism Whitsundays
4	Tourism Central Australia
5	Mr Gerard Bell
6	Summerfruit Australia Ltd
7	KPMG
8	International Air Transport Association
9	Ardrossan Batlow Apples
10	Victoria Tourism Industry Council
11	Citrus Australia - SA Region
12	Apple and Pear Australia Limited
13	Reid Fruits
14	Dr Joanna Howe, Assoc Prof Alexander Reilly, Assoc Prof Diane van Broek, Dr Chris F Wright
15	Tourism Industry Aotearoa
16	Tasmanian Farmers and Graziers Association
17	AUSVEG
18	National Farmers' Federation
19	Australian Chamber - Tourism
20	Tourism and Transport Forum Australia (TTF)
21	Board of Airline Representatives of Australia
22	Australian Federation of Travel Agents
23	Department of Agriculture and Water Resources
24	Pastoralists & Graziers Association of WA
25	Australian Institute of Superannuation Trustees
26	South Australian Wine Industry Association
27	Professor Stephen Howes & Mr Henry Sherrell
28	Australian Dairy Industry Council
29	Cotton Australia
30	YHA Australia
31	Chartered Accountants Australia and New Zealand
32	Growcom
33	Australian Airports Association
34	Tasmanian Government
35	NSW Business Chamber
36	NSW Farmers Association
37	Mr Luke Smith
38	Australian Regional Tourism Network
39	Primary Employers Tasmania

40	Queensland Government
41	Tourism Accommodation Australia & Australian Hotels Association
42	Association of Asia Pacific Airlines
43	Brisbane Airport Corporation Pty Ltd
44	WAFarmers
45	Australian Tourism Export Council (ATEC)
46	Cruise Lines International Association Australasia
47	Mr Peter Mares
48	Qantas Airways Limited
49	Mr Mark Zanker
50	Northern Territory Government
51	Tourism Australia
52	National Union of Workers
53	American Airlines
54	Australian Taxation Office (ATO)
55	The Treasury
56	Fruit Picking Jobs and Working Holiday Jobs Australia

Additional information received

1. Additional information received from CaPTA Group at a public hearing held in Cairns on 31 October 2016.
2. Additional information received from Tourism Port Douglas & Daintree at a public hearing held in Cairns on 31 October 2016.
3. Additional information received from Mr Julian Ledger, Youth Hostels Association Australia on 3 November 2016.

Answers to questions on notice

1. Answer to a question on notice from a public hearing held in Canberra on 26 October 2016 provided by the International Air Transport Association.
2. Answers to questions on notice from a public hearing held in Canberra on 26 October 2016 provided by the Australian Taxation Office (ATO).

Tabled Documents

1. Document tabled by the Tourism and Transport Forum at a public hearing held in Canberra on 26 October 2016.
2. Document tabled by the Tourism Tropical North Queensland at a public hearing held in Cairns on 31 October 2016.

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3. Document tabled by Youth Hostels Association Australia at a public hearing held in Launceston on 2 November 2016.

Correspondence received

1. Correspondence from Primary Industries and Regions South Australia (PIRSA) received 4 November 2016.
2. Correspondence from the Australian Business Software Industry Association (ABSIA) received 8 November 2016.

Appendix 2

Public hearings and witnesses

CANBERRA, 26 OCTOBER 2016

ABRAMS, Mr Barry Gerard, Executive Director, Board of Airline Representatives of Australia

ENGLAND, Mr Andrew, Deputy Commissioner, Policy Analysis and Legislation, Australian Taxation Office

EWING, Mr Robert, Acting Division Head, Tax Analysis Division, Revenue Group, Treasury

FINLAY, Mr Brent, President, National Farmers' Federation Board

FRASER, Mr Bede, Principal Adviser, Individuals and Indirect Tax Division, Treasury

HART, Mr John, Chair, National Tourism Council, Australian Chamber of Commerce and Industry

INGERSOLL, Mr Michael, Assistant Commissioner, Individuals, Australian Taxation Office

KELLY, Mr Ben, Assistant Commissioner, Policy, Analysis and Legislation, Australian Taxation Office

LONDON, Ms Alison, Deputy Commissioner, Individuals, Australian Taxation Office

LORIGAN, Mr Ian Douglas, Area Manager, South West Pacific, International Air Transport Association

MAHAR, Mr Tony, Chief Executive Officer, National Farmers' Federation

McKINNON, Ms Sarah, General Manager, Workplace Relations and Legal Affairs, National Farmers' Federation

OSMOND, Mrs Margaret Hannah (Margy), Chief Executive Officer, Tourism and Transport Forum

PURVIS-SMITH, Mrs Marisa, Division Head, Individuals and Indirect Tax Division, Treasury

WESTBURY, Mr Jayson Breck, Chief Executive, Australian Federation of Travel Agents

CAIRNS, 31 OCTOBER 2016

BENNETT, Ms Tara, Executive Officer, Tourism Port Douglas Daintree

BYRNE, Mr Kevin Michael, Chief Executive Officer, Advance Cairns

DAVIES, Mr Dominic, Managing Director, Woolshed Holdings

de WAAL, Mr Alex, Chief Executive Officer, Tourism Tropical North Queensland

MACKENZIE, Ms Rachel, Chief Advocate, Growcom

MORO, Mr Joe, President, Mareeba District Fruit and Vegetable Growers Association

TOBIN, Mr Travis, Chief Executive Officer, Queensland Farmers' Federation

WOODWARD, Mr Ben, Director, Sales and Marketing, CaPTA Group

LAUNCESTON, 2 NOVEMBER 2016

BADCOCK, Mr Michael, Board Director and Council Member, Tasmanian Farmers and Graziers Association

FERGUSON, Mr Martin, Chair, Tourism Accommodation Australia

FERGUSON, Mr Stephen, National CEO, Australian Hotels Association

HANSEN, Mr Howard Carl Soelberg, Managing Director, Hansen Orchards Pty Ltd

LEDGER, Mr Julian Litton, Chief Executive Officer, YHA Australia

McKEE, Mr James, Director, Tourism Industry Council of Tasmania

REID, Mr Timothy James, Managing Director, Reid Fruits

RICE, Mr Keith James, Chief Executive, Primary Employers Tasmania

SHELLEY, Mr Peter, Managing Director, Australian Tourism Export Council

TONER, Mr Matt, Lead Organiser, Fair Food Team, National Union of Workers

WEDGWOOD, Mr Sam, Senior Policy Adviser, Tasmanian Farmers and Graziers Association

WILLIAMS, Mr Glynn, President, Primary Employers Tasmania

WOODS, Mr Bradley Brian, CEO, Australian Hotels Association Western Australia