



Ms Tanja Cvijanovic  
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Dear Ms Cvijanovic

### REGULATORY IMPACT STATEMENT – FINAL ASSESSMENT SECOND PASS

I am writing in relation to the attached Regulation Impact Statement (RIS) prepared for Working Holiday Makers.

I believe the RIS is consistent with the ten principles for Australian Government policy makers.

In particular, the RIS addresses the seven RIS questions:

- *What is the problem?*
  - Recent Administrative Appeals Tribunal decisions have established that under the existing law, most WHMs are non-residents for tax purposes and therefore required to pay 32.5 per cent tax from the first dollar of income. However, not all WHMs are classified as non-residents for tax purposes. Those who stay in the one place and establish ties to the community may be classified as residents. This disadvantages WHMs that are transient compared to WHMs that stay in one place. In addition, WHMs tend to incorrectly self-assess as residents.
  - Taxing WHMs at the 32.5 per cent tax rate has led to concerns, particularly in the agriculture and tourism industries for which WHMs are a vital source of labour, that WHMs will choose to visit other countries over Australia.
- *Why is government action needed?*
  - Legislation is required to ensure that all WHMs are taxed on a consistent basis, at a rate that ensures that Australia is an attractive destination for WHMs, given their role in providing seasonal labour.
- *What policy options are you considering?*
  1. Retain the current law as clarified by the AAT decisions. Transient WHMs would be considered non-residents for tax purposes and therefore taxed at 32.5 per cent from their first dollar of income, however, WHMs who stay in the one place and establish ties to the community, would be classified as residents.
  2. All WHMs would be treated as non-residents for tax purposes, and taxed at 32.5 per cent from their first dollar of income up to \$87,000 (implementation of the 2015-16 Budget measure).

3. From 1 January 2017, apply a 19 per cent tax rate for all WHMs, from the first dollar earned up to \$37,000, with ordinary marginal tax rates applying after that.
4. Reduce Australia's WHM (417 and 462) visa application charge by \$50 to \$390 from 1 July 2017.
5. Allow WHMs to stay with one employer for up to 12 months, as long as the second six months is worked in a different region.
6. Provide funding of \$10 million to Tourism Australia to support a global youth-targeted advertising campaign.

I note that the option to increase the age limit for WHM visas has been removed from the RIS as a final decision on this option has not yet been made.

In order to make the package broadly budget neutral, two revenue raising options were considered:

1. From 1 July 2017, increase the Passenger Movement Charge (PMC) by a one-off amount of \$5, from \$55.
2. Increase the rate of tax on the Departing Australia Superannuation Payment (DASP) for WHMs to 95 per cent, also effective 1 July 2017. It is currently 38 per cent for the taxed elements and 47 per cent for untaxed elements (including the Temporary Budget Repair Levy).

- *What is the likely net benefit of each option?*

- Maintaining the current law will not address any of the problems raised.
- Applying the non-resident tax rate of 32.5 per cent to all WHMs would clarify the treatment of WHMs and remove the inconsistent treatment of WHMs. However, it is expected that these benefits do not outweigh the cost of Australia potentially losing its attractiveness as a destination for potential WHMs.
- Decreasing the tax rate for WHMs and the accompanying compliance package will have a fiscal cost of \$310 million over the next four years and a low overall compliance cost. These costs are expected to be exceeded by the economic benefit to the tourism and agriculture sectors that rely on the supply of WHMs to perform seasonal work and the economic contribution generated by the WHMs' increased spending.
- Decreasing the visa application fee and providing funding for Tourism Australia's advertising campaign are expected to increase Australia's attractiveness to WHMs, which will help meet Australia's demand for seasonal workers. In addition, these workers will pay tax and stimulate economic growth through both their consumption and employment.
- Extending the time that a WHM can stay with one employer will benefit WHMs by providing them with more flexibility in the kind of employment that they can undertake in Australia. It will also provide a compliance saving to employers as it will allow them to retain employees for longer, reducing training costs.

- *Who will you consult and how will you consult them?*
  - A broad range of participants have been engaged through an independent consultation facilitated by Deloitte, including representatives from the agriculture and tourism sectors, unions, and labour hire companies.
  - The Department of Agriculture and Water Resources also ran an online submission process and survey. Responses were received from a wider range of stakeholders than in the stakeholder engagements, including individual travellers, businesses, and other interested organisations outside the agriculture and tourism sectors.
- *What is the best option from those you have considered?*
  - The best option is to implement policy options 3 to 6 along with the two revenue raising measures as a package.
- *How will you implement and evaluate your chosen option?*
  - Options 3, 4 and 6 will be implemented through a legislative package, which will also include two revenue raising measures. Option 5 will be implemented through the Department of Immigration and Border Protection updating policy guidance documents and communications materials.
  - The ATO will develop a simple registration process for employers who need to withhold tax from WHMs. The ATO will also leverage off existing interactions with government agencies, WHMs and their employers to ensure that WHMs are taxed correctly.
  - Relevant Government agencies will undertake ongoing monitoring and reporting of the effectiveness of the measures. This includes an annual report that the ATO will prepare for Parliament on WHMs.

I am satisfied that the RIS addresses the concerns raised in your letter of 5 October 2016. Specifically:

- The *Problem* section has provided greater detail about exploitation of WHMs and details around the visa condition that generally requires WHMs to change employer after six months.
- The revenue raising options have been included in the *Options* section.
- The *Analysis of Net Benefits* section now provides further information on the expected impacts of the policy options on the labour market to the extent possible, given data constraints. Discussion of the risks and behavioural impacts on WHMs is also included.
- The *Consultation* section now identifies which groups of stakeholders were consulted in Deloitte's independent stakeholder engagement exercise, as well as the Department of Agriculture and Water Resources' online submission process and survey. Not all views are able to be attributed to specific stakeholders.
- The *Implementation and review* section provides further details on implementation and how the ATO will mitigate the risk of non-compliance with the measures.
- The status of the RIS at each stage has been outlined in a new section at the end of the RIS.

I note that concerns relating to the option to increase the age limit for WHM visas have not been addressed as this option has been removed from the RIS.

I also note that, since my first letter, the regulatory burden estimates have been agreed with the OBPR. The RIS has been updated with the most up-to-date and appropriate compliance costs.

Accordingly, I am satisfied that the RIS is now consistent with the Australian Government Guide to Regulation.

I submit the RIS to the Regulatory Reform Division for formal assessment.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Maryanne Mrakovcic', written in a cursive style.

Maryanne Mrakovcic  
Deputy Secretary  
Revenue Group