

AFTS Secretariat
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Sir,

In this submission, I wish to concentrate on the poorly constructed tax and transfer system, which sees many people on lower to middle incomes paying tax, only to have it returned by the Government in family tax benefits or some like payments. This “churning” of funds is wasteful and inefficient, but it is not as if many people (including myself) have failed to point this out to various governments in inquiry after inquiry. As someone who is in the paid workforce, I am often appalled that one works to lunchtime, propping up the Australian Taxation Office and the Medicare system (while maintaining my own private health insurance).

In short therefore, this review of the taxation system should:

1. Abolish allowable deductions while raising the tax thresholds to compensate taxpayers for the loss of the deductions. This has been advocated for some time by the head of Access Economics, Geoff Carmody.¹ I particularly like the idea because it would excuse many people (including me) from filing a tax return;
2. Set the top marginal tax rate at 30%, matching the corporate rate and, thus minimising the incidence of tax avoidance, as you take away the incentive to “hide” assets in companies.²
3. Act to make the Medicare levy a less regressive and unfair tax, particularly on those with low incomes. Again, as Mr Carmody said in the same speech:

“...For most of us, the Medicare Levy *is* a 1.5% ‘flat tax’ on all income: but not for all. You see, there are low income exemptions that are means tested and ‘clawed back’. The basic 1.5% Medicare Levy applies to all taxable income when you earn more than \$17,191. If you earn less than \$15,903, there’s no Levy. What about in between? Here, things turn nasty. Every *extra* dollar of income here means 20c in Medicare Levy. So the 1.5% Levy is really a 20% marginal tax for some poorer people. But there’s more. The 20% Levy occurs where income tax is 15%. Here, the *effective* tax rate is really 35%...”³

People should be able to retrieve what is in essence a fierce example of low-income ‘bracket creep’. Elsewhere, I have advocated a part public/part private health care system, which would reward those on lower incomes for maintaining private health insurance, while allowing those who could not afford full private cover to still purchase some services from the private sector.⁴ As part of the same reform, the Australian Competition and Consumer Commission should approve premium increases (not the Health Minister of the day, thus removing a partisan political element from the debate)⁵ and people should be encouraged to have health savings accounts which operate in much the same way as superannuation.⁶ Such accounts would lessen dependence on the Medicare system; I think a fundamental principle that should underlie any review of a taxation system should be that the system itself promotes self-reliance, independence and, a population that expects less *and wants less* from government. The component that would make such a change of

¹ See Carmody, Geoff, Tax Cuts or Tax Reform: Which? For Whom?, Address to the National Press Club, 5 April 2006, p. 2, available at <http://accesseconomics.com.au/publicationsreports/getreport.php?report=70&id=79> (p.7)

² See *ibid.*, p.3

³ *Ibid.*, p.2

⁴ See generally, Johnston, Adam, *Take Two Aspirins and Call for More Reform* at <http://www.onlineopinion.com.au/view.asp?article=6832>

⁵ See my submission to the Fair Pay Commission’s Minimum Wage Determination in 2006, at <http://www.fairpay.gov.au/NR/rdonlyres/5E7F19D3-9DBA-4BA1-8364-688B058CCB97/0/JohnstonSubmission.pdf> (p.3)

⁶ See references cited for footnote 4 and footnote 5

thinking possible would be the Australian community seeing that less intervention from government meant more money in their pockets and more freedom of choice for individuals and their families.

But this is not the thinking being promoted by either the Rudd Labor Government or the Howard Liberal predecessor. Ironically, so-called 'welfare to work' programs demonstrate how difficult it is to have policy makers refrain from developing programs, which while claiming to give people dignity and independence, actually make them more reliant on government.

Welfare to Welfare

The Howard Government introduced phrases such as "mutual obligation" and "welfare to work" into the political and social lexicon of Australia. The former Government also abolished the centralised Commonwealth Employment Service (CES) and invited other agencies from the private and non-profit sector to bid for contracts to place unemployed people in work.

In principle, this should have been a boon for determined and resilient individuals. Unemployed people were no longer forced to register with one centralised agency in order to find work while on benefits; they could go to whichever placement agent suited them. Equally, the State made it clear that welfare payments were finite and would be cut if individuals failed to actively look for work.

But what happened? I contend that many employment agents and many of the workplaces they service actively perpetuate welfare, particularly when it comes to people with a disability, while calling the outcome work. The Government funds agents via the *Commonwealth State Territory Disability Agreement*,⁷ based on factors including the number of job seekers on their books. While there may be bonuses for getting people into work, those with disabilities are often placed in jobs under a program called the Supported Wages Scheme.

This calculates the wages that a person is entitled to earn, based on the assumption that the bulk of a person's income will continue to be the taxpayer funded Disability Support Pension. Admittedly, we are also dealing with people who, due to their impairment, cannot fulfil all the requirements of a job. However, rather than let businesses and employees work out job-sharing arrangement or case-by-case pro rata arrangements, the Commission ordered a \$64 per week increase in the Special Wage Scale⁸ despite at least one disability advocacy group warning that such an across the board rise, unrelated to hours worked, would disadvantage those least able to compete in the job market. The example given is of a high needs individual who could only work a maximum of 8 hours a week.⁹ This is \$8 an hour for no productivity trade-off, but equally for all of the 3,500 employees' concerned¹⁰ little advancement either, as their wage is still only a nominal amount designed to preserve their pension.

Therefore, is any of this really productive, useful and fulfilling work for any of the parties concerned? The Fair Pay Commission never actually appears to have asked that question in its 2006 or 2007 minimum wage determination, though the latter extended the applicability of the SWS and created a Special Federal Minimum wage. The extension brought an estimated 17,500 workers¹¹ into the scheme, which while giving them greater legislative protection in relation to minimum income, did little for their long term circumstances. This is because many of the businesses that people with disabilities work are in the charitable and non-profit sector, receiving all or part of their funding from the Commonwealth under the *Disability Services Act 1986*.¹²

In its 2007 determination, the Commission concluded that the impact of the Special Federal Minimum Wage and expansion of the SWS on the non-profit or "business services" (sheltered workshop) sector could not be established because the arrangements had not been in place long

⁷See Australian Fair Pay Commission (AFPC), *Wage-Setting Decisions 2/2007, 3/2007, 4/2007 and Reasons for Decisions*, July 2007, © Commonwealth of Australia 2007, p.94

⁸AFPC, *Wage-Setting Decision and Reasons for Decision: October 2006*, © Commonwealth of Australia 2006, p.121

⁹See *ibid.*, p.118

¹⁰See *ibid.*, p.118

¹¹See *ibid.*, p.113

¹²See *ibid.*

enough. However, the Government suggested that based on the limited feedback it had, that there was “no detrimental impact.”¹³ And, in many respects, why should there be: workers got a ‘pay rise’ and whatever happens, State and Federal Governments will be there to pay for it, regardless of whether you are an employment agent, a ‘business service’ or an ‘employee’. Further, should the Commission’s ‘reforms’ mean you lose your job, then you will still be entitled to your taxpayer-funded pension.

Is this welfare to work or welfare to more welfare? While the Special Federal Minimum Wage put a floor under earners, the system necessarily puts a pension-linked ceiling on wages and aspirations. Should workers with disabilities, their families or the wider taxpaying public be forced to accept this contrived system of subsidised wages and industries? Where will it end, and where is the incentive to introduce new capital and invest for business growth, if you are geared to look to the next government funding round to supply both income and employees. Where indeed is the honesty and integrity in calling any of this welfare to work?

Such engrained welfare dependence needs to be addressed by this taxation review. Unless policy makers begin to insist that ‘business services’ (sheltered workshops) are to operate as free standing businesses (minus government subsidies) there will continue to be a lot of hidden churning of taxation dollars, as many of the same dollars flow between the agent, the ‘service’ and the ‘employee’.¹⁴

‘Render unto Caesar’

My final recommendation to this review is that you should recommend that all charities and churches pay all State and Commonwealth taxes, or at the very least, those that would be applicable to a corporate body in Australia. I think it is the height of hypocrisy for large charities, trusts and Church groups to at once hold substantial assets on which next to no duties are paid, simply on the basis that a body is charitable or religious. These same bodies chastise governments regularly about a lack of social services, yet do not appear to see their failure to contribute to the Exchequer as in any way related.¹⁵

Yours faithfully,



Adam Johnston

October 6, 2008

¹³ AFPC, *Wage-Setting Decisions*, July 2007, p.92

¹⁴ See Appendix 1, which is my unpublished 2007 submission to the Fair Pay Commission on this issue

¹⁵ See my earlier comments to a Senate inquiry, raising the matter of churches and taxation at

http://www.aph.gov.au/Senate/committee/clac_ctte/completed_inquiries/2004-07/leg_response_lockhart_review/submissions/sub53.pdf (pp. 3-4)

Dear Sir,

"Find a job you like and you add five days to every week." - Jackson Brown (Life's Little Instruction Book)¹

In writing this submission to your inquiry into the Minimum Wage, my first point is to indicate that since writing to you last year² my search for work continues; though this may soon be coming to a fruitful end. And, despite various disappointments in this long journey, the above quotation encapsulates what one hopes for from employment.

What is work?

As such, I am pleased to say that I have never been (nor would I ever agree to be) part of the Supported Wage Scheme. (SWS) This Commission and various disability lobbyists should decide whether they are really interested in letting people with disabilities work in an open employment market place, or whether by virtue of disability some people will always be considered marginal to the economy? In many respects, SWS sounds little the cousin of Australia's largely dismantled industrial tariff system of the last century. This is shown by the concession in your own Report where you say:

“...The minimum weekly payment for employees under the SWS system has historically been determined by reference to the income-test free threshold for the (Disability Support Pension) DSP...”³

This shows that SWS is not designed to facilitate people into economically sustainable work, as one of its key assumptions is that people remain part of the welfare system. It appears to ask employers to prop up activities which can be classified as work, but which in an open market would not be going business concerns. Furthermore, the perverse nature of the system was pointed out by ACROD when it advised the Commission that the system could actually be a barrier to employment.⁴

ACROD also used the example of a high needs individual who could only work a maximum of 8 hours a week. At just 1.6 hours per day, even as a person confined to a wheelchair, I am left wondering how such an outcome can truly benefit any party concerned. The work placement probably costs more to administer than it returns in productive output and, unless there was a particular personal affinity between employer and employee, it seems to suggest the system regards *the appearance* of work to be considerably more important than any realistic assessment of whether such activity is *actually* gainful employment. Equally, if someone is that sick or incapacitated that they can complete barely more than an hour's "work" a day, how did any competent assessment of their capacity conclude they should enter the workforce in the first place? And the employment bureaucracy does throw up

¹ Refer to http://www.just-quotes.com/daily_quotes.html

² See <http://www.fairpay.gov.au/NR/rdonlyres/5E7F19D3-9DBA-4BA1-8364-688B058CCB97/0/JohnstonSubmission.pdf>

³ Australian Fair Pay Commission (AFPC), *Wage-Setting Decision and Reasons for Decision: October 2006*, © Commonwealth of Australia 2006, p.118

⁴ See *ibid*

perverse decision making processes, such as the widely reported case last year of the young man desperately ill with leukemia who was told by *Centrelink* that he should be able to find work.⁵

Despite all of this, the Commission has retained and indeed expanded the SWS, given your decision to:

“...establish a new special Pay Scale that extends coverage of the SWS pro rata wages to preserved Pay Scales that do not currently provide for pro rata wage arrangements...”⁶

This perpetuates a system which does not appear to give many people any real chance of a genuine, rising income that would lead to anything close to self-sufficiency. I think this is unacceptable, and shows that not only must the system for disability employment change, but the whole rationale *for the system's existence must change*. Firstly, employment needs to be bona fide work that is economically sustainable and potentially leads to a career progression. Secondly, employment should be marked by a departure (be it immediate or progressive) from the welfare system. Thirdly, a more realistic view needs to be taken on not only who is capable of working, but also what employment truly constitutes.

In this respect, I draw your attention to comments made in my prior submission. In particular, I noted how the tax system can operate as a real disincentive to finding paid employment.⁷ I reiterate these concerns and note that both Access Economics and the Australian Chamber of Commerce have been advocating simplifying the tax system, by closing loopholes and eliminating deductions.⁸ I would happily give up tax deductions if I could earn more before being required to pay tax. The Commission's decision though, denies many people with disabilities the capacity to earn more. While you raise the SWS in dollar terms, it is still hinged to the DSP; this leaves the income of many disabled people largely a function of the welfare system, rather than the employment market. This perpetuates an unwieldy, complex and costly system of transfer payments from *Centrelink*, while the Commission keeps alive a certain aspect of the ghost of official centralised wage-fixing.

For as long as the DSP remains a key factor in the setting of income (note my reluctance to call it wages) for disabled people, many will remain socially and economically disadvantaged. This perpetuates not only that disadvantage, but the role of employment, welfare and other agencies, including the Commission itself. One of your goals should be to do yourself out of a job, by aiming to make decisions which are less prescriptive and, most importantly, uncouple welfare from wages policies. This will allow income to rise, in line with the ability, aptitude and determination found in the workforce. Then, more people with disabilities will truly be able to earn

⁵ *Centrelink admits cancer teen bungle*, August 9, 2006 - 10:09AM, Sydney Morning Herald, <http://www.smh.com.au/news/national/cancer-teen-bungle/2006/08/09/1154802927858.html>

⁶ AFPC, op. cit., p.120

⁷ See <http://www.fairpay.gov.au/NR/rdonlyres/5E7F19D3-9DBA-4BA1-8364-688B058CCB97/0/JohnstonSubmission.pdf> (pp.2-3)

⁸ See John Garnaut, *How to pay less tax by giving up deductions*, Sydney Morning Herald, December 22, 2006, <http://www.smh.com.au/articles/2006/12/21/1166290677335.html>

wages, which would grow over time, placing people above the minimum wage. To achieve this, I believe the Commission must start by more directly and forcefully talking about the incidence and negative impact of taxation on wages and employment. In particular, the damaging effect of tax on low income earners and families continues to be widely reported and there is a wealth of information on this issue which the Commission should make ever greater use of.⁹

Employment agencies

You will also note from my prior submission that I was highly critical of employment agencies and the general “employment bureaucracy” which is visited upon the unemployed. It is often complex, slow, inefficient and counterproductive – indeed, media reports show that it can also be corrupted.¹⁰ These institutions, often funded by large amounts of Government money are just as much part of the disability employment/wages “problem”, as is your decision to maintain the SWS. Therefore, we see that public money subsidises employment agencies placement activities. This is then often followed by the subsidisation of wages, also courtesy of the taxpayer. And this outcome is called “employment”, despite the fact that vast amounts of taxpayers’ money is being poured in at both ends of the system?

Additionally, some agencies will call you into meetings, saying they have a “special arrangement” with a potential employer. I related to you a particular experience of this in my prior submission.¹¹ It is appropriate to now relate the outcome of this process – nothing. The agency with the supposed special relationship was Disability Works Australia (DWA) and the employer was the ACT Government. This relationship was so special that the ACT Government “suspended” its Graduate Program.¹² I complained to my employment agent, the ACT Government and the Federal Minister for Workforce Participation Dr Sharman Stone MP. Her Department advised that:

“...In increasing the employment opportunities for people with disability DWA enters into Memoranda of Understanding (MOUs) with employers. The MOUs are designed to articulate the available services required by each employer to assist them hire people with disability. Legal contracts are not used because it would be unlikely that

⁹ For example see John Garnaut (Economics Correspondent), *Tax burden heaviest on working women*, Sydney Morning Herald, May 1 2006, <http://www.smh.com.au/text/articles/2006/04/30/1146335611826.html>; See also Peter Saunders, *A simpler tax system would benefit families*, The Newcastle Herald, 29 December 2006, <http://www.cis.org.au/exechigh/exechigh.html> - In particular, note Saunders’ comments regarding the contradictions in Government policy regarding child welfare payments: “...The...desire to help working parents reduce the child-care cost burden is well-intentioned. But so is the road to Hell. Because pragmatic politicians have tried to please all the people all of the time, we already have a family tax system that is contradictory as well as complex. We give extra family payments to women who stay home, for example, but we counter this with child-care benefits for women who go out to work. Each set of parents pays for the others' benefits...” (my emphasis); See generally Geoff Carmody, *Tax Cuts or Tax Reform: Which? For Whom?*, Address to the National Press Club, 5 April 2006

¹⁰ See Adele Horin, *Cash-poor job agencies have given ethics the sack: report*, Sydney Morning Herald, November 23 2006, <http://www.smh.com.au/text/articles/2006/11/22/1163871481938.html>

¹¹ See <http://www.fairpay.gov.au/NR/rdonlyres/5E7F19D3-9DBA-4BA1-8364-688B058CCB97/0/JohnstonSubmission.pdf> (pp.3-4)

¹² See letter from ACT Chief Minister Jon Stanhope MLA to Adam Johnston, dated 18 October 2006

employers would risk facing penalty in the case that they had to defer or stop a recruitment process.

It is important that employers are not discouraged from seeking to employ people with disability by requiring them to be penalized if their fluctuating business concerns cause them to cease a planned recruitment process. When an employer places a job vacancy into the public domain there is always the risk that the employer's will change and that the recruitment may have to be deferred or stopped..."¹³

While the Department's position is understandable to a point, there are several questions which need to be raised. The first is what preparatory investigations did DWA make to satisfy itself that the arrangement it had with the ACT Government was more than likely to be completed? Secondly, if the agency failed to make reasonable inquiries as to the bona fides of parties signing MoUs, why shouldn't it be held legally accountable for such failures? After all, there is much public money at stake.

Also, the use of MoUs is part of a worrying trend in public administration, highlighted by the Victorian Attorney-General the Hon. Rob Hulls MP in his speech before the Centennial Sitting of the High Court of Australia. Mr. Hulls said:

“...In our defence of the rule of the law, we must also be alert to, and alarmed by, attempts to bypass judicial scrutiny, whether it be via privative clauses or the more insidious trend towards unenforceable guidelines. In my view, any suggestion that an Executive's “non-binding guidelines” be accepted as authoritative is dangerous terrain. Yet it is increasingly the case that we are asked to accept the legitimacy of such guidelines, whether it be in Industrial Relations, decisions concerning grants of Legal Aid, or more poignantly in the immigration area...”¹⁴

MoUs are another form of unenforceable official “guideline” where parties can promise everything and get away with delivering absolutely nothing, just like DWA did in my case. This meant that I ultimately wasted time and energy on an employment process which came to nothing. Of course, I appreciate that there will be times when positions are dissolved or abandoned, but particularly in the public sector there should be some financial reckoning as to the cost of staging aborted recruitment processes, and Departments of State, as well as employment agents like DWA, should be required to hand back to Treasury money they spend on programs which are not completed.¹⁵ The prospect of a financial penalty for a “failure to complete” should introduce a discipline in planning, assessment and execution, which is currently sadly lacking; and costing Australians uncounted millions in the meantime.

¹³ Letter from Alison Durbin (Assistant Secretary, Disability Employment Services Branch), to Adam Johnston, dated 24 November 2006

¹⁴ The Hon. Rob Hulls MP, *Ceremonial - Special Sitting at Melbourne - Centenary of High Court of Australia [2003]* HCATrans 406 (6 October 2003) Last Updated: 25 November 2003, [2003] HCATrans 406, <http://www.austlii.edu.au/cgi-bin/disp.pl/au/other/HCATrans/2003/406.html?query=%5e+high+court+centenary>

¹⁵ See letter from Rachel Bisa (HR Services – Recruitment People Management Branch), to Adam Johnston, dated 10 October 2006

As such, it was somewhat disappointing to learn recently that DWA's arrangement with the Commonwealth would continue – I do not think renewal was merited.

Yours faithfully,

Adam Johnston
February 27, 2007