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20 February 2019

The Treasury
Langton Crescent
PARKES ACT 2600

Online submission: https://consult.treasury.gov.au/budget-policy-division/2019-20-pre-budget-submissions/

Dear Sir/ Madam

2019-20 Pre-budget Submission

CPA Australia represents the diverse interests of more than 163,000 members working in 125 countries and regions around the world.

We make this submission on behalf of our members and in the broader public interest. We provide our organisation's recommendations for the 2019-20 Federal budget process in the accompanying Attachment.

We expect that the Government will provide further detail of its responses to the Banking Royal Commission and the Productivity Commission's review titled 'Superannuation: Assessing Efficiency and Competitiveness' in the Budget. We however urge the Government to not act with undue haste in developing such responses and to engage widely with those impacted, including advisers, consumers and business before making any announcements.

If you have any queries do not hesitate to contact Gavan Ord, Manager Business and Investment Policy at CPA Australia on gavan.ord@cpaaustralia.com.au or 03 9606 9695.

Yours sincerely

Andrew Hunter
Chief executive Officer

Attachment

CPA Australia - Federal Budget Recommendations

Getting regulation right: consistent, cost efficient and effective

1. Increasing direct public funding of ASIC's regulatory costs

As stated in our submission on ASIC's industry funding model on 15 December 2017, CPA Australia 'cannot support the full cost recovery model as proposed and recommend that the government instead explore a partial cost recovery model.'

The reasons for this position are primarily due to:

- the fees may have negative implications for consumers as it may encourage further market concentration, particularly in financial advisory services and amongst self-managed superannuation fund (SMSF) auditors. Market concentration limits competition, which in turn can lead to increased prices. For example, the charges are such that it may discourage new entrants into regulated activities.
- the full cost recovery model for ASIC appears not to recognise the impact it may have on the financial viability of those that need to pay the charges, particularly small businesses.
- the fees may motivate behaviours not in the public interest. For example, charging SMSF auditors cancellation of registration fees ($899) may discourage inactive auditors or those not maintaining necessary levels of competency from cancelling their registration and create increased costs for ASIC in deregistering them through enforcement action.
- the full cost recovery funding model for ASIC does not recognise that the entire community benefits from a well-functioning, efficient capital market that operates with integrity, encourages competition and is accessible to the vast majority of people.
- the full cost recovery model for ASIC appears not to recognise the cumulative effect of other government activities on those having to pay fees.
- the full cost recovery funding model may create a perception that ASIC is reliant for funding on those they regulate. The risk of ASIC being perceived to be 'captured' by the sector may further undermine the community's trust and confidence in ASIC.

Given these factors, CPA Australia is of the view that the government should move away from the full cost recovery funding model for ASIC's regulatory fees and instead implement a partial cost recovery model. This will require the government to reinstate some funding previously cut from ASIC's budget.

Recommendation:

- the government should move ASIC's funding from a full cost recovery model to a partial cost recovery model and therefore reinstate some funding previously cut from ASIC's budget.

2. Increasing direct public funding of the Tax Practitioners Board's regulatory costs

The Australian Taxation Office (ATO) is undertaking several large projects, such as its tax agent visitation program, to improve the integrity of some tax practitioners. These projects are likely to lead to an increase in the number of tax practitioners being referred to the Tax Practitioners Board (TPB) by the ATO. We also expect that the TPB will support the ATO's projects in other ways. Therefore, it is important that the TPB receives additional funding to carry out this expected increase in work flow.

We do not however support a repeat of the 2018-19 budget, where the increase in funding for the TPB was paid for by tax practitioners through a large increase in the fee they pay the TPB. Given that a well-functioning and regulated profession is critical to the tax system and is therefore of benefit to the broader community, such an increase in funding should primarily come direct from taxpayers.

Further, we are strongly opposed to the application of a full cost recovery model on the TPB. The primary function of the TPB is to regulate tax practitioners to protect consumers – it is therefore consumers that primarily benefit from the work of the TPB; and so, the public should continue to be the main source of funding for the TPB.

Further, many tax practitioners undertake other regulated roles such as SMSF auditors and/or provide financial advisory services and are already facing large increases in regulatory charges from multiple sources. It is essential that this cumulative impact of higher regulatory charges on professional accountants offering services beyond tax service, be considered.

The Government should also fund a review of the Tax Agent Services Act to ensure that it is still fit for purpose and consistent with other regulation given changes to regulation for the providers of financial advisory services since the Act's implementation.

Recommendations:

- the government directly increase its funding of the TPB so that it can better support the work of the ATO to improve the integrity of some tax practitioners.
- the government make a commitment to not introduce the full cost recovery model on the TPB.
- the government fund a review of the Tax Agent Services Act in 2019-20.

3. Review of the Government's cost recovery guidelines

The Federal Government should fund an independent review of the Department of Finance's 'Australian Government Cost Recovery Guidelines'. The review should consider whether:

- the cost recovery guidelines are being applied appropriately and fairly by all agencies, such as with ASIC.
- there are circumstances in which partial cost recovery may be more appropriate. For example, do the guidelines permit agencies to implement a partial cost recovery model where the benefits of government activities are enjoyed by the wider community, not only the direct consumers of such activity – i.e. the community is the beneficiary of a well-resourced corporate regulator, not just those that are regulated.
- the impact of cost recovery charges on competition and the financial viability of those who may need to pay is being appropriately considered and reflected in the charges.
- agencies are adequately consulting with those who may be required to pay charges, to understand the cumulative impact a proposed charge may have on such entities. Where they are, is that being reflected in the charges?
- agencies are considering how the guidelines interact with other government priorities including its deregulation agenda and its open data policy.

Such an independent review should be empowered to recommend cuts to charges or the removal of cost recovery fees where they are inappropriate.

Recommendation:

- the government fund an independent review of the Australian Government Cost Recovery Guidelines.

4. Remove the fee on ASIC registry searches

We believe that the fee on all searches of the ASIC registry must be removed. Allowing anyone to conduct a cost free search of ASIC's company registry has the following benefits:

- improving the probability of business success as ready and free access to financial and other information about suppliers, customers and other entities should assist businesses make more informed decisions about with whom they should interact.
- reducing the risk of exposure to entities and persons that may have a history of illegal phoenix activity.
- assisting business to meet certain regulatory obligations - for example, undertaking customer due diligence under anti-money laundering legislation.

- allowing for a deeper understanding of Australian businesses and the economy through macro-level research and analysis of such data.

Free access to the ASIC company registry will also reduce the costs of doing business and improve access to economic information important to the operations of small and medium businesses. Further, continuing to charge a fee for registry searches is inconsistent with international best practice - searches of similar registries in the US, UK and New Zealand are free. It would also be consistent with the government's open data policy.

While we acknowledge that the Government is seeking to reduce the fee for certain registry searches, removing the fee altogether is a far better policy. Further, limiting the fee reduction to just accessing information on 'company roles and relationship extracts' seems to ignore the great value business obtains from access to financial reports.

While we acknowledge that this recommendation will have an impact on government revenue, we believe the benefits to the community, especially small businesses, far outweigh any foregone revenue.

Recommendation:

- the government amend the exposure draft of the *Treasury Laws Amendment (ASIC Cost Recovery and Fees) Regulations 2019* to remove ASIC registry search fees for all.

5. Review the government's deregulation agenda

CPA Australia recommends that the Government fund an independent review of the effectiveness of its deregulation agenda.

Not only should such a review consider options to further reduce unnecessary regulation but also consider options to improve the design and implementation of new regulation. It is our view that well designed and implemented regulation is equally important as efforts to reduce unnecessary regulation.

Such a review should consider whether the process for new regulatory proposals:

- identifies and quantifies the matter the regulation is seeking to address.
- considers whether the existing regulatory regime could address the matter and if so, is evidence provided as to why further regulation, rather than better application of the existing law, is better.
- sufficiently considers non-regulatory options to address the matter, such as education.
- suitably considers the cost to the community of such regulatory proposals and provides options to ameliorate such costs.
- encourages government agencies to fully consult with those impacted by the proposal.
- gives government agencies a good understanding of the direct and indirect consequences of a proposal, including what behavioural changes may emerge from a proposal.
- adequately considers the impact the regulation will have on competition, innovation and the viability of those who will be regulated.
- appropriately considers the cumulative impact of other government activities on those who are to be regulated under the proposal.

Further, such a review should consider whether current institutional support and oversight of the deregulation agenda is sufficiently robust and independent to ensure that there is a consistent whole-of-government approach to delivering best practice in the design and implementation of regulation.

Recommendation:

- the government fund an independent review of the effectiveness of its deregulation agenda.

Tax and superannuation measures

6. Subjecting proposed tax and superannuation announcements in this Budget to confidential external review before announcement

A common concern from stakeholders on tax and superannuation announcements on Budget night, is they often appear to have had little or no review by external experts before the announcement.

Such confidential expert reviews before a public announcement could lead to better policy outcomes and clearer announcements in the Budget papers.

An example from the last Budget is the proposed three-year SMSF audit cycle. If external experts across all sectors were consulted before the announcement, they could have quickly explained the negative implications of this policy proposal.

Recommendation:

- the government engage individual external experts to confidentially review all proposed tax and superannuation proposals for the Budget before a decision is made as to whether to include it in the Budget papers.

7. Revisit the three-year SMSF audit cycle announcement from the previous budget

CPA Australia strongly recommends that the Government revisit its three-year SMSF audit cycle announcement from the previous Budget with a view to withdrawing the announcement.

We make this recommendation as we foresee that the proposal, if implemented:

- could increase rather than decrease the cost of SMSF audits, as audits every three years represent higher risk and therefore require more intensive work;
- may lead to more contraventions that become more significant, as they may not be detected for up to three years; and
- may make it more difficult for SMSF auditors to meet current competency requirements to remain auditors, due to less SMSF audits being undertaken.

Our position is explained in detail in our submission to Treasury's discussion paper.

Recommendation:

- the government withdraw its proposal to give certain SMSFs access to a three-year audit cycle.

8. Revisit the proposal to remove the CGT main residence exemption for non-residents

CPA Australia strongly recommends that the Government revisit its proposal to remove the Capital Gains Tax (CGT) main residence exemption (MRE) for non-residents. The retrospective nature of this proposal is draconian and inconsistent with fair and reasonable policy design.

There are several options to make the proposed change more equitable. Our preference is to allow a partial exemption for the number of days the taxpayer was a resident and lived in the dwelling as their MRE (being similar to the mechanism in section 115-115 of the *ITAA (1997)* which allows a pro-rating of the residency days for CGT discount purposes).

This option restricts eligibility for the MRE to the period in which the individual was an Australian resident for tax purposes, which is broadly congruent with the application of the existing provisions of the CGT discount under Subdivision 115-B of the ITAA (1997).

Such an approach would be widely understood by tax practitioners and their clients and strikes a measured approach between appropriately targeting access to the concessions whilst ensuring fairness and equity.

Failing that, the Government should extend the end of the transition period to 30 June 2020 at the earliest in recognition of the delay in the passage of the Bill.

Recommendation:

- the government amend the *Treasury Laws Amendment (Reducing Pressure on Housing Affordability No. 2) Bill 2018* by removing the retrospective removal of the CGT main residence exemption for non-residents.

9. Encouraging saving and investment

Australia's income tax system penalises taxpayers on income derived from savings outside the superannuation system, thus discouraging non-superannuation savings and investment.

Superannuation's tax-preferred status has enabled it to become the primary savings vehicle for most Australians. This has been very beneficial for retirement savings, but it fails to recognise the necessity for individuals to save income outside of superannuation to afford, amongst other things, major capital purchases during a person's working life.

If income derived from savings was taxed at a rate that was lower than an individual's marginal personal tax rate, this would encourage greater savings and investment outside of the superannuation regime.

It may also encourage investment in assets other than only the family home or residential property more broadly.

Australia's Future Tax System report proposed a 40 per cent savings income discount available to individuals for non-business related net interest income, net residential rental income (including related interest expenses), capital gains (and losses), and interest expenses related to listed shares held by individuals as non-business investments.

Such a recommendation may make investments outside of residential property (that is not the family home) and superannuation more attractive.

Recommendation:

- the government introduce a 40 per cent savings income discount for individuals for non-business related net interest income, and net residential rental income.

10. Real property and investment

We encourage the government to undertake a post implementation review of its housing affordability announcements from the 2017-18 budget to determine the impact of these measures.

In the meantime, it is important that investor confidence is not further eroded by additional policy changes in this space.

Recommendations:

To help preserve wealth and to ensure investor confidence is not further eroded, CPA Australia recommends:

- no winding back or removal of the ability of investors to negatively gear investments,
- no reduction in the CGT general discount,
- no change in tax laws applying to pre-CGT assets, and
- no change to the tax-exempt status of the family home.

11. Other tax and superannuation recommendations

Recommendations:

- the government increase the funding to the Office of Parliamentary Counsel to clear the backlog of announced but unenacted tax measures and to shorten the time between announcement and the release of draft legislation for consultation.
- the Government increase the funding of the Board of Taxation to expedite the completion of their FBT Compliance Cost Review and the Review of Small Business Tax Concessions.
- if the Government is to proceed with the proposed Super Guarantee amnesty, the end date of the amnesty should be extended to 30 June 2020 given the protracted period of uncertainty without enacted law.
- the Government delay the start date of proposed amendments to the Division 7A regime that are not in the taxpayer's favour.
- the Government consider the merits of lifting the concessional cap for superannuation to $30,000.

Education

12. Improving financial literacy

The Royal Commission into Misconduct in the Banking, Insurance and Financial Services Industry amongst other things, highlights the need to improve the overall financial literacy of Australians.

As part of its overall assessment of the Royal Commission's final report, the government should consider whether the programs and support it has in place to improve financial literacy are adequate and appropriately targeted at those who may need the most support.

The Budget provides an opportunity for the government to earmark funding to improve and extend existing financial literacy programs and fund new programs.

Part of such a review should consider how to improve access to affordable independent financial advice for people who may have low levels of financial literacy. Such a review could consider the effectiveness of overseas programs such as the Money Advice Service in the UK, which was established by the UK government to provide 'free and impartial money advice'.

Recommendations:

- the government provide funding for a review of the adequacy of existing financial literacy programs and determine whether such programs are supporting those most in need of support.
- such a review should consider how to improve access to affordable independent financial advice for those who may have low levels of financial literacy.
- the government set aside funding for improvements to existing financial literacy programs and the creation of new programs if necessary.

Environmental issues

13. The Green Climate Fund – replenishment

CPA Australia believes it is important for the Federal Government to recommit to providing additional funding to the Global Climate Fund (GCF) as a crucial element of Australia's assistance to developing countries that are taking action to adapt and mitigate for the effects of climate change.

In stating this, we acknowledge criticisms of the governance shortcomings of the GCF, most notably a Working Paper from the World Resources Institute (WRI) *Setting the stage for the Green Climate Fund's first replenishment* (September 2018). However, rather than no longer participating in the GCF, the Federal Government should at a minimum engage in the positive steps already underway to tighten and give greater transparency to the GCF's processes.

Given the key role the GCF can play in assisting developing nations take action on climate change, CPA Australia recommends that Australia reinstate its funding to the GCF to at least equal to the initial 2016-2020 contribution of $200 million.

Recommendation:

- the government participate in international efforts to develop guidance for the Global Climate Fund Board and consider reinstating its contribution of at least $200 million to the GCF.

14. Emissions reductions policies

While the United Nation Environment Programme (UNEP) confirms that Australia will meet its Kyoto Protocol Pledge of a 5 per cent emission reduction between 2013 and 2020, the UNEP assessment is that Australia has no policies in place that would enable achievement of its UNFCCC commitment of a 26 to 28 per cent reduction in greenhouse gas (GHG) emissions below 2005 levels by 2030.

According to the OECD's third *Environmental Review of* Australia, Australia's transition to renewable sources of electricity, though occurring, is well below the OECD average of 25 per cent, stressing the clear linkage and vulnerability of Australia to climate change and biodiversity and ecosystem loss.

Further, the Department of Environment and Energy (DEE) December 2018 Emissions Projection Report forecasts the Australia will fail to meet its reduction targets in 2030 by quite a margin. Adding to this, DEE projections for the Government's main policy tool to cut emissions, the Emissions Reduction Fund (ERF), shows the abatement it should deliver is well short of Australia's emissions reduction target.

Given this, CPA Australia recommends that the government replenish its funding of the ERF to increase the amount of abatement it can achieve. Further, energy policy must be given certainty, most particularly the extension for a further five years of the $2 billion per annum applied to the Clean Energy Finance Corporation. This will enable investment in a sustained stream of technological innovation in electricity supply in Australia.

Recommendations:

- the government replenish its funding of the Emissions Reduction Fund.
- the government re-commit to the Clean Energy Finance Corporation to the tune of $2 billion per annum for the next five years.

Other

15. Improving support for small business

CPA Australia's Asia-Pacific Small Business Survey continues to show that Australian small businesses wanting to grow need to improve their digital capability, management capability and understanding of overseas markets.

Such capability can be improved in several ways, as was highlighted in the report of the Government's Small Business Digital Taskforce. For example, the proposal by Australian Industry Standards to establish a 'national digital skills framework' could guide the development of appropriate training and resources to enhance the digital capability of small business owners and the workforce more generally.

We therefore believe there are opportunities for the government to develop tools that can help enhance the capability of small business in the areas highlighted above. However, with small businesses generally being time poor and often not willing or able to recruit additional staff, accessing professional advice is often the most viable way to improve their capability. For such capability tools to achieve the best possible outcome, it is important that the delivery of such tools be done by professional advisers such as professional accountants.

We note that while many small businesses access some form of professional advice, many do not or only do so for compliance reasons. This seems especially to be the case for those new to establishing or operating a business.

The annual extension of the instant asset write-off creates uncertainty for small business, particularly where the amendment to the law is passed after its commencement date. Making it a permanent feature of the system would cut that uncertainty.

Recommendations:

- the government fund the development of educational material and other programs to assist small business build their digital capability, management skills and understanding of overseas markets. The delivery of such material should be primarily by professional advisers.
- the government fund programs that encourage those new to business to seek professional advice. Options include the government giving new businesses a voucher that can be redeemed for professional advice from, for example, a registered tax agent.
- the government make the proposed $25,000 instant asset write off a permanent feature of the tax system.

16. Increase funding to the Australian Charities and Not-for-profits Commission

We believe the Australian Charities and Not-for-profits Commission (ACNC) is not appropriately funded to effectively undertake its important regulatory mandate, including regulating NFPs and a national regulatory regime for fundraising by the sector. This is acknowledged in 'Strengthening for Purpose: Australian Charities and Not-for-profits Commission Legislative Review 2018' which states at page 24:

> While the ACNC Act was enacted including three objects, since its establishment in 2012, the ACNC advised the Panel that it has only been funded to undertake the first object. As such, the ACNC has been shaped by both its expanded objects and its limited resources to perform the second and third objects.

Given the contribution the not-for-profit sector makes to the economy and society (the revenue the charities sector alone generates is the equivalent of 8 per cent of Australia's GDP and the sector employs more than 1.3 million people)[1], we believe it important that funding for the ACNC be extended so that it can effectively regulate that sector in addition to the charities sector.

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[1] See https://treasury.gov.au/consultation/c2017-t246103/

Related to this, we believe it is important for the government to release its response to the legislative review as soon as possible.

Recommendations:

- the government increase funding to the ACNC to enable it to effectively regulate the not-for-profit sector.
- the government release its response to the ACNC legislative review as soon as possible.

17. Revisit the White Paper on Australia in the Asian Century

The scale and pace of Asia's transformation is unprecedented and the implications for Australia are therefore profound. With significant changes to the geopolitical and technological landscape since the release of the Australia in Asian Century White Paper in 2013, we believe it timely for the government to fund the development of an updated White Paper.

As with the first White Paper, we believe that a new White Paper should emerge from an extensive nationwide review co-ordinated by the Department of Prime Minister and Cabinet. The major objective of the White Paper should be to establish a new strategic framework and actions to position Australia for the Asian Century.

Recommendation:

- the government fund the update of a new White Paper on Australia in the Asian Century.

18. Migration Policy – Skilled occupation shortage lists

There are significant benefits in having a migration program that attracts the best and the brightest, and which continues to lead the way in designing an approach which achieves this goal.

Preference should continue to be given to skilled migrants. This approach has served Australia well since the 1980s. Australia has the opportunity for international ascendency in securing the preferences of smart globally minded talent, as other leading skilled migration destination countries such as the USA and the UK regions are rethinking their approach to immigration.

The quantity of immigrants should not be capped. What matters is quality. As stated by The Treasury and the Department of Home Affairs in 'Shaping a Nation - Population growth and immigration over time' '*Australia's skill-focused migration program has increased the resources, skills and knowledge available in our economy, boosting opportunities for all Australians*.'

The Federal Government should alter its approach to skilled migration by refocusing it more on:

- skills development and less on filling skills gaps,
- cross-disciplinary skills and less on occupations, and
- skills recognition, for example, recognition of prior learning and micro-credentials and less on formal qualifications.

Recommendation:

- the government change its approach to skilled migration by refocusing it more on skills development, cross-disciplinary skills and skills recognition, for example, recognition of prior learning and micro-credentials.

19. Other

Recommendation:

- the government continue to improve public access to the data it holds through its open data web site www.data.gov.au.