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Standing Committee on Tax and Revenue
PO Box 6021
Parliament House
CANBERRA
Canberra ACT 2600

Email: taxrev.reps@aph.gov.au

UNSW Tax Clinic – Submission to the Inquiry into the Commissioner of Taxation Annual Report 2018-19

Dear House of Representatives Standing Committee on Tax and Revenue

UNSW Tax Clinic is grateful for the Committee's invitation to make a submission to the Inquiry into the *Commissioner of Taxation Annual Report 2018-19* (Inquiry). We also, for the reasons explained below, very much welcome the Committee's List of Recommendations in relation to the *2016-17 Annual Report of the Australian Taxation Office*, especially Recommendation 34 (extracted below):

Recommendation 34

The Committee recommends that the Government establish a fully independent low cost external support mechanism which provides vulnerable taxpayers (who meet transparent criteria) the ability to provide funded, or part funded legal representation.

The design and operation of the US Low Income Taxpayer Clinics program could be considered as a model for an Australian initiative.

This submission is guided by a triangulation of UNSW Tax Clinic's observations of financially vulnerable taxpayers, our aggregated client data, and our grassroots research. We highlight three key observations from that exercise:

- **The enormity of the problem** – Our research suggests that up to 840,000 financially vulnerable people are in financial distress and have an unmet need for independent tax advice.
- **Ensuring we only target those in genuine financial distress** – We strongly agree with the Committee's previous recommendation to target *vulnerable taxpayers*, and have pioneered a novel approach (explained below) to prioritise financially vulnerable people.
- **Litigation matters are eclipsed by overdue lodgements and debt collection** – Both our clinical observations and our nation-wide survey of financial counsellors tell us that financially vulnerable taxpayers have a pressing need for tax lodgement and debt collection support – with relatively few needing legal representation (unlike the US Low Income Taxpayer Clinics).

Each of these observations is detailed below in turn.

1 The enormity of the problem

There are currently no publicly available data quantifying the otherwise unmet need for independent tax advice in financially vulnerable people. Our research fills this gap. We find that the unmet need for independent tax advice ranges between 30-40% of all people seeking financial counselling assistance regardless of their socio-economic group across Australia (Kayis-Kumar et al, 2020).

This means that up to 840,000 financially vulnerable people are unable to access independent professional tax advice per year (being 40% of 2.1 million adults across Australia experiencing severe or high financial stress: UNSW Centre for Social Impact, 2018).

Sadly, this figure is likely to grow over the coming year, with ever-increasing shocks to the Australian economy (from drought to bushfires to floods to COVID-19) putting further financial pressure on those already at risk and with up to date tax compliance obligations usually being a precondition to access to various forms of government assistance.

2 Ensuring we only target those in genuine financial distress

In our view, the ‘missing piece of the puzzle’ that tax clinics are well-positioned to fill is the gap between free *tax assistance* (namely, ATO’s Tax Help Program,¹ which does not give tax advice) and independent, professional *tax advice*.

However, it is only registered tax agents who are authorised to provide tax advice, such as to professionally lodge tax returns as part of a tax agent service (pursuant to section 90-5 of the *Tax Agent Services Act 2009* (Cth)).

So, we provide our clients – all of whom are financially vulnerable – with a pro bono tax agent service. That is, our team of registered tax agents provide free and independent tax advice to financially vulnerable taxpayers who otherwise would not have access to tax advice across NSW. This service is year-round and we specifically target vulnerable taxpayers in genuine financial distress.

UNSW Tax Clinic is fully integrated into the financial counselling sector, working closely with Financial Counselling Australia and the Financial Counsellors’ Association of NSW Inc. Almost all our clients are obtained via ‘warm referrals’ from financial counsellors. For completeness, financial counsellors work in not-for-profit community organisations providing free, independent and confidential advice and support to people experiencing financial stress.

This eligibility pathway is unique by both international and domestic standards.

The ATO, to their credit, have seen that this alternative model works. So, UNSW Tax Clinic is now leading a coordinated approach to integrating the National Tax Clinic Program into Financial Counselling Australia’s network of financial counsellors across Australia.

¹ While ATO’s Tax Help serves a genuine need for community assistance, it has limited scope because it can only assist in preparing simple, mostly current-year returns for low income people – *and does not provide tax advice*. Small businesses (including sole traders) are not eligible. Low income individuals engaged in the ‘gig’ economy with ABNs are not eligible.

3 Litigation matters are eclipsed by overdue lodgements and debt collection

We strongly recommend that the focus of Australia's National Tax Clinic Program be in providing free and independent tax advice by registered tax agents to financially vulnerable people.

The US Low Income Taxpayer Clinics program's focus on assistance in relation to litigation matters is appropriate for its context. It is not tailored to Australia's tax and transfer system nor does it reflect the unmet need as observed 'on the ground'.

Since launching in June 2019, we have helped over 130 financially vulnerable taxpayers with over \$3,000,000 in total tax debts. Our client profile is as follows:

- On average 8 years of outstanding personal income tax returns;
- On average 27 outstanding BAS returns; and,
- On average over \$98,000 in tax debts.

Our nation-wide survey of financial counsellors provides empirical evidence in this space. We find that financially vulnerable taxpayers in Australia have a serious and overwhelming need for tax advice in relation to outstanding lodgements and tax debts.

Almost all clients with a tax issue seen by survey participants need advice on lodging tax returns (93% of cases) and assistance with tax debt discussions (88% of cases). A small proportion need assistance lodging an objection to an ATO decision (18% of cases), with even fewer need assistance in litigation against the ATO (7% of cases) or an audit conducted by the ATO (7% of cases) (Kayis-Kumar et al, 2020).

The need for litigation assistance pales in comparison – particularly in communities with relatively higher socio-economic disadvantage (that is, Index of Relative Socio-Economic Advantage and Disadvantage (IRSAD) deciles 1-5) who are unlikely to see clients who need assistance in litigation (only 4.3% of cases) (Kayis-Kumar et al, 2020).

Again, we very much welcome participating in this Inquiry. Please let us know if you would like any further details or if you have any questions.

Yours faithfully



Dr Ann Kayis-Kumar

Professor Michael Walpole

Mr Gordon Mackenzie

Co-Founders, UNSW Tax Clinic