



15 December 2022

Committee Secretary
Senate Standing Committees on Economics
PO Box 6100
Parliament House
Canberra ACT 2600

By email: economics.sen@aph.gov.au

Re: Skills and Training Boost

To Whom It May Concern:

The National Tax & Accountants' Association ('NTAA') is grateful for the opportunity to provide a submission on the proposed 'Skills and Training Boost' and the 'Technology Investment Boost' ('the Boosts') that will be introduced into the income tax legislation following the passage of *Treasury Laws Amendment (2022 Measures No. 4) Bill 2022* ('the Bill') through Parliament.

Broadly, the NTAA supports the Boosts as a measure that will encourage employers to invest in their employees and their businesses.

We would like to provide feedback on two issues following our consideration of the proposed legislation that was tabled before Parliament.

1. Skills and Training Boost – The first issue highlights an issue that appears to conflict with the intention of the new legislation in relation to the Skills and Training Boost.

Upon reading the Bill and the accompanying Explanatory Memorandum ('EM'), we have encountered a potential issue regarding the practicalities of the Skills and Training Boost.

Specifically, it appears as though this boost will **not** apply in circumstances where an **employer reimburses an employee** for expenditure incurred by the employee at first instance. For example, if the cost of a training course is invoiced to an employee (by a registered training provider), it appears as though the boost cannot apply if their employer reimburses them for the cost of the course.

In particular, under proposed S.328-450(1)(e), in order for expenditure to be eligible for the Skills and Training Boost, the expenditure must be "*charged, directly or indirectly, **to you by the providers of the training***".

The "you" in this context is the employer. This means if an employee is charged by the training provider, the boost will not be available to an employer who reimburses an employee for the cost of the training.

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This restriction appears to be counterproductive to the intention of the Skills and Training Boost deduction, especially as it is common for training providers (particularly higher education providers) to charge the student at first instance (rather than the student's employer).

Although it may be possible to organise for the employer to be charged by the provider for the training, this seems an unnecessary step taken purely for the purposes of qualifying for the boost.

Although the legislation allows for expenditure to be charged indirectly to the employer, this is intended to allow for intermediaries to charge on behalf of the registered trainer and does not appear to extend to reimbursing employees. Refer to paragraphs 4.30 to 4.32 of the EM.

If it is not the intention of the Skills and Training Boost to exclude the reimbursement of employee expenditure, we believe it can be rectified by amending proposed S.328-450(1)(e) to read as *“the expenditure is charged, directly or indirectly, to you (or the employee provided with the training) by the providers of the training”* (or words to similar effect).

2. Technology Investment Boost – The second issue relates to the ability of an employer to claim the Technology Investment Boost for expenditure incurred in providing fringe benefits to its employees, particularly as a result of an effective salary packaging arrangement.

Employers may incur potentially eligible expenditure for the Technology Investment Boost when providing fringe benefits for their employees. For example, such expenditure may relate to either:

- the purchase of an exempt portable electronic device under S.58X of the FBTAA (e.g., laptop computers, smartphones and electronic tablets primarily used by an employee for their employment) where a **residual or property fringe benefit** is to be provided; or
- the reimbursement of an employee for the cost they have incurred in relation to such a portable electronic device in the form of an **expense payment fringe benefit**.

This raises the question of whether the employer could qualify for the bonus 20% deduction under the Technology Investment Boost for expenditure for the purpose of providing fringe benefits (including exempt benefits) to their employees.

If this were the case, then the second question would be whether the benefit of the bonus 20% deduction could be passed on to an employee under an effective salary sacrifice agreement.

The legislation is silent on the direct impact of providing fringe benefits or salary packaging assets potentially subject to the Technology Investment Boost. Importantly, the legislation does **not** exclude expenses related to the provision of fringe benefits from the definition of eligible expenditure. Rather, *“salary and wage costs”* are excluded from qualifying as eligible expenditure (refer to S.328-460(5)(a)).

“Salary and wage costs” is not a defined term for the purpose of the Technology Investment Boost. We would suggest, based on the ordinary meaning of the phrase, this would **not** extend to exclude expenditure incurred for the purpose of providing fringe benefits to employees (including exempt benefits).

Despite this, one concern that has been raised as to the effectiveness of claiming the Technology Investment Boost on expenditure incurred in providing a salary-packaged fringe benefit is flagged in paragraph 5.32 of the EM, which states:

*“The bonus deduction is **not intended to cover general operating costs relating to employing staff, raising capital, the construction of the business premises, and the cost of goods and services the business sells**”.* **[Emphasis added]**

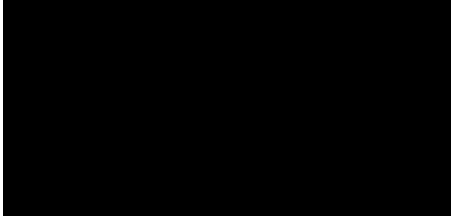
Unfortunately, it is not clear whether this is intended to imply that the Government would have an issue with the Boost applying to expenditure associated with the provision of salary-packaged fringe benefits.

Therefore, clarity is sought as to whether it is the intention of the proposed legislation to exclude otherwise eligible expenditure relating to the provision of salary-packaged fringe benefits.

Thank you again for the opportunity to comment on the proposed Boosts and the accompanying Explanatory Memorandum.

Should you wish to discuss the issues raised above, please contact **Ben Kilkenny** at [REDACTED] [REDACTED]).

Yours faithfully

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Geoff Boxer
Chief Executive Officer