

The abandoned education cap policy: public participation in tax reform consultation

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Abstract

This article examines public participation in tax reform in Australia using an analysis of the publically available submissions made in response to the Treasury discussion paper, “Reform to deductions for education expenses”. The discussion paper was released by Treasury in May 2013 in relation to the \$2,000 cap for education expense deductions. The introduction of the proposed reform was subsequently deferred and then abandoned by succeeding governments, but not before an unprecedented campaign was launched by a collective alliance of taxpayers and their representative

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organisations. This study uses regulation theories to frame the examination of the public response to the discussion paper and the explicit issues raised by interest groups in their formal submissions. More specifically, the research question considers: how do the Australian public participate in the tax consultation process? We also consider the appropriateness of the questions included in the discussion paper and the consultation process more broadly. Findings indicate support for private interest theory and also highlight a lack of transparency and feedback in this Treasury consultation.

1. Introduction

Over the past two decades, policymakers have attempted to make tax reform in Australia a consultative process. This article considers a proposed cap on education expenses as a case study on public participation in consultation. The publically available submissions in response to *Reform to deductions for education expenses* (the discussion paper)¹ are analysed and other broader issues of public consultation in tax policy examined. The discussion paper proposed a \$2,000 cap on work-related education expenses. There was an overwhelmingly negative response to the proposal expressed through the public consultation process and other forums, with Treasury receiving between 800 and 900 submissions from individuals, professional bodies and industry associations.² In August 2013, the Rudd Government announced that it would defer the implementation of the proposal for one year. In November 2013, the newly elected Abbott Government announced the abolition of the proposed policy.

This current study is motivated by the paucity of empirical evidence in Australia concerning participation by the public in the tax reform process. One notable exception is Kraal and Yapa's analysis of publically available submissions to a specialised government created committee (Policy Transition Group) on the resource rent tax legislation,³ which found that the government lacked effectiveness in their consultation process. Specifically, they found that the initial submissions were never made public, inadequate terms of reference for the submitters led to some failing to provide a rationale for the position they had taken, and not all stakeholders were genuinely consulted. They identified the need for future research on the effectiveness of the government's consultation process to understand format, content and rationale of submissions.⁴

This article therefore considers the following research question: how do the Australian public participate in the tax consultation process? This question is considered by way of a content analysis of the publically available submissions concerning the discussion paper, with both the form and content of the submissions investigated. The submissions are also considered more broadly in the context of the consultation process itself, the nature of which is described in the following section. The results show that submissions vary greatly in form and length but have commonalities such as a reluctance to engage with questions posed by Treasury. As far as the content of the sample submissions themselves, the dominant focus was not on issues with education, and furthering education, but on costs of continuing professional development (CPD).

1 Released by Treasury on 31 May 2013 with a limited consultation period of 42 days. Available at [www.treasury.gov.au/Consultations and Reviews/Consultations/2013/self-education-expense](http://www.treasury.gov.au/Consultations%20and%20Reviews/Consultations/2013/self-education-expense).

2 Personal communication with Treasury on 9 July 2014.

3 D Kraal and PW Senarath Yapa, "Resources rent taxes: the politics of legislation" (2012) 27(3) *Australian Tax Forum* 485.

4 *Ibid.*

The paper makes two important contributions. Firstly, it adds to the literature on regulation theory by presenting an Australian taxation reform perspective to an area dominated by studies concerning various government agencies and regulators, such as health, education, employment administrators, superannuation, climate change and accounting. It also informs industry and regulators by providing an insight into the public consultation process involving tax reform, including how consultation is invited, how the public participate in the form of submissions, and the feedback and transparency of the process itself. The structure of the remainder of the article is as follows: section two considers some historical background to consultation in the tax policy process in Australia, section three provides a review of the literature on theories of regulation, and a brief history of the public participation in Treasury consultations is outlined in section four. Section five introduces the discussion paper and section six provides the analysis of the submissions themselves. Concluding comments are presented in the final section.

2. Consultation and the Tax Reform Process

During the 20th century, the development of tax law in Australia lacked a set mechanism for community input into tax policy and tax law design.⁵ Yet despite the lack of any established procedures, consultation was still a consideration. In 1984, the Australian Taxation Office (ATO) established two informal advisory committees, the Commissioner's Advisory Panel (CAP) and the Tax Liaison Group (TLG),⁶ as a mechanism for feedback from taxpayers and their representatives as well as the wider community.⁷ Bob Hawke as Labor Prime Minister outlined his consultative approach to tax reform in his 1984 election speech:⁸

“[A]ny reform package must have widespread community support, including support at a widely representative National Tax Summit of economic organisations and community groups.”

The “Tax Summit” was held in July 1985 to discuss the issues previously presented in the draft white paper “Reform of the Australian tax system.”⁹ According to the

5 M Dirkis, “Observations on the development of Australia’s income tax policy and income tax law” (2002) 56 *Bulletin for International Fiscal Documentation* 522 at 525.

6 Joint Committee of Public Accounts, Parliament of Australia, *Report 326 an assessment of tax* (1993), p 1.

7 *Ibid.*

8 Bob Hawke, election speech (speech delivered at Sydney, NSW, 13 November 1984). Available at <http://electionspeeches.moadoph.gov.au/speeches/1984-bob-hawke>.

9 P Keating and Department of Treasury, “Reform of the Australian tax system: draft white paper” (1985) Australian Government Publishing Service, Canberra.

literature, this summit established taxation as a major political issue¹⁰ and arguably increased public interest in tax, reflected by the high volume of legislative change between 1985 and 1998.¹¹ The late 1990s saw more attempts to establish consultation leading up to the introduction of “A New Tax System” by the Liberal Government.

Despite these developments, the opportunities for consultation seemed ad hoc. However, with the turn of this century, a more formalised process began to emerge. In response to a recommendation of the 1999 Ralph Review, the Board of Taxation was established in 2000. One of the Board’s stated objectives was to allow those outside the public sector to be involved in consultation on tax reform.¹² The Board of Taxation is responsible for overseeing consultation relating to tax reform measures and Treasury is charged with conducting consultation with the community. While many consultations invite the participation of the public generally, others are targeted and invite participants who are considered to have expertise in the policy area, or those who belong to a group affected by the particular policy in question.

In its report to the Treasurer entitled *Improving Australia’s tax consultation system*, the Board of Taxation identified the following four foundations for community consultation:¹³

- clearly defined and stated scope and objectives of the consultation;
- identifying stakeholders;
- transparency of information and process; and
- open and timely feedback of results.¹⁴

Despite the articulation of these points by the Board, the process of Treasury inviting public comment on tax policy proposals is not necessarily consultative.¹⁵ Recently, Treasury acknowledged that the consultation process is not consistent and sometimes “[falls] short of desired outcomes”.¹⁶ It recognised that rather than having definitive steps outlined as part of due process, tax policy consultation is an evolving process in which Treasury “adapts its processes to emerging situations”.¹⁷ It is subject to a high degree of variation depending on the type of policy, stage of development, economic cycles, available resources, and the prevailing government of the day.

10 G Hill, “Tax reform: a Tower of Babel; distinguishing tax reform from tax change” (2005) 1(2) *Journal of the Australasian Tax Teachers Association* 1 at 4.

11 Ibid 17.

12 Commonwealth of Australia, Review of Business Taxation, *A tax system redesigned* (1999).

13 Based on a review of international evidence and “domestic stakeholder input”.

14 Commonwealth of Australia, Board of Taxation, *Improving Australia’s tax consultation system* (2007), p 35.

15 Kraal and Yapa, above n 3.

16 Treasury, *Treasury’s approach to tax consultation: second submission to the Board of Taxation’s review of the report on the tax design review panel* (21 September 2011), p 3.

17 Ibid.

Treasury describes the process as being “fluid and multi-faceted”¹⁸ and considers that it incorporates three main purposes:¹⁹

1. to discover and assess information, because ultimately the ATO and judiciary must be able to enforce the intent of any policy;
2. to disseminate major shifts in policy; and
3. to build relationships and dialogue with peak professional bodies.

It is arguable that the role of consultation in the tax policy process has been marginal at best given that, ultimately, the extent to which the tax policy process is consultative depends on the government of the day. Even in instances where public comment is invited, the government can choose to ignore such commentary. Treasury has noted that “successful consultations tend to have common attributes whereas unsuccessful consultations are unsuccessful in their own way”.²⁰ It is unclear what constitutes success or otherwise in this context and no explanation is provided of the attributes that are common to “successful” consultations. Treasury does not explain whether this relates to the ultimate adoption of the proposal or to the perceived efficiency and effectiveness of the consultation process itself.

In the remaining sections of the article, we consider the role the public plays in the consultation process with reference to the discussion paper. Our analysis considers the format of the submissions and the issues raised within. According to the literature, the level of response from the public and lobby groups, and the degree of dissatisfaction with a proposed policy or reform, influences the final decisions of the policy makers.²¹ Furthermore, the tax literature considers that the public might be heard when it speaks loudly or with one voice on tax policy.²² The following section reviews the extant literature and theories in this area.

3. Participation by the Public: Theoretical Perspectives

Theories of regulation suggest that lobbying behaviour by constituents may be explained in a number of ways. Private interest theory takes an economic perspective and suggests that particular groups will lobby for the best outcome to suit their own interests and in turn government regulators will support politically powerful interest

18 Ibid p 9.

19 Ibid pp 4-8.

20 Ibid p 10.

21 R Eccleston and I Marsh, “The Henry Tax Review, cartel parties and the reform capacity of the Australian state”, (2011) 46(3) *Australian Journal of Political Science* 437; B Guy Peters, *The politics of taxation* (Blackwell, 1991) 8; S Yackee, “Sweet-talking the fourth branch: the influence of interest group comments on federal agency rulemaking” (2006) 16(1) *Journal of Public Administration Research and Theory* 103.

22 Peters, above n 21; Yackee, above n 21.

groups.²³ Research in diverse areas such as Australian superannuation reforms,²⁴ the Garnaut climate change review,²⁵ deregulation in telecommunication industries in OECD countries,²⁶ and the impact of CLERP²⁷ on lobbying for accounting standards,²⁸ to name a few, have used regulatory theory explanations for reform agendas. Each of the aforementioned studies found evidence of private interest theory being supported.

In contrast, the public interest theory of regulation assumes that regulators are benevolent and have efficient political resources, power, and information to ensure the general public interest is served. Posner explains that “taxes and subsidies of all sorts as well as explicit legislative and administrative controls over rates, entry, and other facets of economic activity”²⁹ represent examples of the public interest ideals. However, some researchers argue that any attempt to delineate between public and private interests or to assume governmental responses have a purely public interest orientation is flawed and simplistic.³⁰ Both private and public interest theories have been criticised many times for their incompleteness.³¹ Both fail to acknowledge the complexities of economic and social interactions and the fact that information is not costless for governments or any one interest group.

In relation to taxation, Eccleston states that the difficulty in introducing tax reform lies in transitioning the norm of the “self-interested” individual taxpayer to “more collectivist ‘public interest politics’ in which actors are prepared to sacrifice concessions to achieve reforms considered to be in the national interest”.³² However, Eccleston considers that taxpayers are not rational economic thinkers and he advances an alternative explanation of lobbying behaviour whereby taxpayers are instead

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- 23 S Peltzman, “Toward a more general theory of regulation” (1976) 19(2) *Journal of Law and Economics* 211; GJ Stigler, “The theory of economic regulation” (1971) 2(1) *The Bell Journal of Economics and Management Science* 2.
 - 24 S Taylor, “Captured legislators and their twenty billion dollar annual superannuation cost legacy” (2011) 21(3) *Australian Accounting Review* 266.
 - 25 S Lodhia and N Martin, “The Garnaut review: what do emissions-intensive trade-exposed industries really think about emerging climate change policies?” (2012) 3(1) *Sustainability Accounting, Management and Policy Journal* 33.
 - 26 T Duso and J Seldeslachts, “The political economy of mobile telecommunications liberalization: evidence from the OECD countries” (2010) 38(2) *Journal of Comparative Economics* 199.
 - 27 Corporate Law Economic Reform Program.
 - 28 P Brown and A Tarca, “Politics, processes and the future of Australian accounting standards” (2001) 37(3) *Abacus* 267.
 - 29 R Posner, “Theories of economic regulation” (1974) 5(2) *The Bell Journal of Economics and Management Science* 335 at 335.
 - 30 D Kraal, “A grounded theory approach to the minerals resource rent tax” (2013) 28(4) *Australian Tax Forum* 841; Lodhia and Martin, above n 25.
 - 31 J den Hertog, “Review of economic theories of regulation” (Discussion Paper Series 10–18, Tjalling C Koopmans Research Institute, 2010) 1; J Stewart, “Public policy as information” (2013) 31(1) *Prometheus* 3, 4.
 - 32 R Eccleston, “Confronting the sacred cow: the politics of work-related tax deductions” (2006) 21(1) *Australian Tax Forum* 3, 16.

“irrational” beings basing their decisions on “a combination of rational evidence and social norms, established traditions and past experience”.³³ Saunders suggests that such lobbying by individuals and interest groups is based on a sense of what is fair, since the concepts of equity and fairness have pervaded the Australian political culture since the mid-19th century.³⁴

The importance of interest groups in aiding the formation of public policy is widely recognised by political scientists and has led to the development of a third regulatory theory called regulatory capture theory.³⁵ According to capture theory, “although the stated purpose of regulation may be to protect the public interest, the party subject to regulation is able to ensure that their private interest dominates the public interest”.³⁶ Over time, the regulator will tend to avoid opposing regulated dominant interest groups because they are dependent on them for information.³⁷ According to Yackee, the concept of capturing government agencies remains somewhat elusive because scholars have previously confused the elements of “influence” and “control” within the decision-making process.³⁸ Capture is defined in the literature as “the control of agency policy decision-making by a sub-population of individuals or organizations outside of the agency”³⁹ rather than merely influencing decisions. Furthermore, “simply observing policy outcomes that appear to favour well-organised and wealthy interests is not evidence of agency capture”.⁴⁰

Other studies in the US have also examined the influence of interest group participation and public comments to proposed federal rules. West recognised that external influences are an inherent part of any rule making process noting that there is “a judicially enforced system of *procedural accountability* that requires administrators to solicit and address public comments on the merits of individual policy decisions”.⁴¹ Yackee examined direct interest group influence by analysing 1,444 interest group comments submitted during the rulemaking process for 40 final US federal rules from various agencies, notably all proposals were of low salience. She found strong

33 Ibid p 19.

34 P Saunders, “What is fair” (2004) 20(1) *Policy* 3.

35 Posner, above n 29.

36 K Chalmers, J Godfrey and B Lynch, “Regulatory theory insights into the past, present and future of general purpose water accounting standard setting” (2012) 25(6) *Accounting, Auditing & Accountability Journal* 1001, 1014.

37 den Hertog, above n 31.

38 S Yackee, “Reconsidering agency capture during regulatory policymaking” in D Carpenter and D Moss (eds), *Preventing regulatory capture: special interest influence and how to limit it* (Cambridge University Press, 2013) p 292.

39 Ibid p 297.

40 Ibid p 300.

41 W West, “Formal procedures, informal processes, accountability, and responsiveness in bureaucratic policy making: an institutional policy analysis” (2004) 64(1) *Public Administration Review* 66 at 66.

evidence that participation in the comment period for rules with low salience⁴² was often able to change government policy outputs to better match the preferences of interest groups. She acknowledged that future studies should consider rules of higher prominence as there are still many “gaps in our understanding of bureaucracy and interest group interactions”.⁴³

Proponents of capture theory suggest that interest groups are successfully able to influence policy decision outcomes for two main reasons: firstly, because they can potentially provide new information and/or expertise; and secondly, because they have the ability to challenge rules in the courts.⁴⁴ Significantly, “the bureaucracy may reduce the probability of successful court challenges by simply responding to the concerns expressed within the interest group comments”.⁴⁵ Golden examined the written comments in submissions regarding eleven different policies proposed by three US federal agencies. She found that the pattern of participation in who makes submissions tends to differ substantially between the types of rules being proposed and the agencies involved with no evidence of any one group being vocal on many issues.⁴⁶ Furthermore, she found that organisations, business groups, and individuals rely heavily on their membership with professional bodies and industry associations to stay informed about proposed rules and government agency policy reforms.

4. Public Participation in Treasury Consultations

The level of public participation in the form of submissions to Treasury concerning tax reform has varied over the past five years but has generally been quite low. Table 1 sets out a sample of the consultation documents, relevant to tax reform, released by Treasury including the number of submissions received for each.⁴⁷ With the exception of major reviews and commissioned reports, such as the Henry Report,⁴⁸ which attracted over 1,500 written submissions, it appears relatively few stakeholders participate in the consultation process. Prior to the proposed reform to education expenses discussion paper (which received over 800 submissions), other consultations that initiated a large response included the proposed reform to living-away-from-home fringe benefits as well as the research and development tax incentive. Most have

42 Response rate is used as a proxy for the relative importance (or salience) of a proposal for constituents.

43 Yackee, above n 21, 105.

44 Ibid.

45 Ibid p 108.

46 M Golden, “Interest groups in the rule-making process: who participates? whose voices get heard?” (1998) 8(2) *Journal of Public Administration Research and Theory* 245.

47 The table only contains documents where the submissions have been made publically available on the Treasury website and the number received can be identified.

48 Treasury, *Australia's future tax system*. Available at <http://taxreview.treasury.gov.au/Content/Content.aspx?doc=html/home.htm>.

garnered much less interest, with the policy proposal of implementing a standard deduction attracting only 13 submissions, and means testing the net medical expense offset attracting only three.

Notably, the proposal to introduce legislation to disallow deductions against rebatable benefits (legislation to disallow self-education deductions against government payments after the *Anstis* case)⁴⁹ received only one submission, which came from a tax law academic. Since that proposal was also related to self-education, it provides an interesting contrast to the discussion paper under investigation in this study. The latter proposal received far more attention from the public. The former legislated changes impacted on low-income students who received Centrelink support in addition to earning income from another source, perhaps a part-time job.

Table 1: Tax policy consultation documents and number of submissions received⁵⁰

Document title	Type	Date	Submissions received
The new research and development tax incentive	Consultation paper	Sept 2009	197
	Exposure draft	Dec 2009	131
	2nd exposure draft	Mar 2010	55
Implementation of a new tax system for managed investment trusts	Discussion paper	Oct 2010	14
Making tax time simpler: standard deduction for the cost of work-related expenses and the cost of managing tax affairs	Discussion paper	Mar 2011	13
Improving the taxation of trust income (updating trust tax provisions and rewriting them into the <i>Income Tax Assessment Act 1997</i>)	Discussion paper	Mar 2011	27
Modernising the taxation of trust income – options for reform	Consultation paper	Nov 2011	36
Fringe benefits tax (FBT) reform living-away-from-home benefits	Consultation paper	Nov 2011	106
	Exposure draft	May 2012	150

49 *FCT v Anstis* (2010) 241 CLR 443; (2010) 76 ATR 735; 2010 ATC 20-221.

50 Treasury, *Consultations and submissions*. Available at www.treasury.gov.au/ConsultationsandReviews/Consultations; Treasury, *Consultations*. Available at <http://archive.treasury.gov.au/content/consultations.asp>.

Disallow deductions against rebatable benefits (legislation to disallow self-education deductions against government payments after <i>FCT v Anstis [2010] HCA40</i>)	Exposure draft	Jan 2012	1
Changes to phase out the mature age worker tax offset	Exposure draft	July 2012	1
Improving access to company losses – introducing loss carry-back	Discussion paper	July 2012	10
	Exposure draft	Aug 2012	2
Business tax reform (how cut in company tax will be funded from within business tax system)	Discussion paper	Aug 2012	83
Means testing the net medical expenses tax offset	Exposure draft	Oct 2012	3
Removal of CGT discount for non-resident individuals	Exposure draft	Mar 2013	30
Improving the transparency of Australia's business tax system	Discussion paper	April 2013	25
R&D tax incentive: targeting access	Exposure draft	Feb 2013	19
Protecting the corporate tax base from erosion and loopholes – preventing “dividend washing”	Discussion paper	June 2013	10
Phase-out of the net medical expenses tax offset	Exposure draft	Dec 2013	13
Amendments to the farm management deposits scheme	Exposure draft	Feb 2014	4

In comparison, the unpopular proposal to reform allowable deductions for education expenses could have potentially impacted all taxpayers claiming education expenses but would have only directly affected those whose claims exceeded \$2,000 per annum, perhaps a different type of taxpayer to one who receives Centrelink payments. Golden, in a study of who participates in the public comment process in the US, found that the poor and underprivileged had few advocates⁵¹ and this finding is supported by the contrasting amount of public interest in these two reforms. Despite equity issues, the difference in the number of submissions received between these two consultations, and more generally those over the past five years (as noted in table 1), raises questions about who has the capacity, inclination, knowledge, expertise and

51 Golden, above n 46.

motivation to prepare a submission to Treasury. The fact that the capped education expenses discussion paper initiated such a large response compared to the many others proposed over the years provides an interesting case study for the consultation process.

5. The Education Cap Discussion Paper

The proposed introduction of the cap on education expenses was initially announced through a press release from then Treasurer Wayne Swan entitled “Reforms to self-education expense deductions”.⁵² This press release may have caused confusion as it implied the cap was limited to self-education and blurred the distinction between “education” expenses and “self-education” expenses. The press release highlighted the ease with which expenses for formal self-education courses were referred to interchangeably with more general expenses incurred for professional development such as attendance at seminars, conferences and workshops. Perhaps in an attempt to allay this confusion between education and self-education expenses, the first press release was removed from the Treasury website and was replaced by a second press release from then Assistant Treasurer David Bradbury entitled “Reforms to education expense deductions”⁵³ which removed all references to “self-education”.

Currently, the ATO website defines self-education as “expenses you incur when you undertake a work-related course to obtain a formal qualification from a school, college, university or other place of education”.⁵⁴ Section 82A of the *Income Tax Assessment Act 1936* (Cth) (ITAA36) limits the amount of expenses that can be claimed and specifically relates to this type of “self-education”.⁵⁵ However, TR 98/9 (Deductibility of self-education expenses incurred by an employee or a person in business) states that “self-education includes courses undertaken at an educational institution (whether leading to a formal qualification or not), attendance at work-related conferences or seminars, self-paced learning and study tours, including sabbatical (whether within Australia or overseas)”.⁵⁶ This is a broader approach, which includes less formal expenses not part of gaining a qualification. The ATO has chosen to separate these two types of expense as can be seen from the 1996 *TaxPack*.⁵⁷

52 Treasury, “Reforms to self-education expense deductions” (media release, no. 048, 13 April 2013).

53 Treasury, “Reforms to education expense deductions” (media release, no. 098, 31 May 2013).

54 Australian Taxation Office, *Income and deductions: self-education expenses* (18 May 2013). Available at www.ato.gov.au/Individuals/Income-and-deductions/Deductions-you-can-claim/Self-education-expenses/Eligible-courses/.

55 S 82A ITAA36.

56 TR 98/9 — Deductibility of self-education expenses incurred by an employee or a person in business.

57 Australian Taxation Office, *TaxPack 96* (ATO, 1996), pp 59–62.

through to the *Individual tax return instructions 2014*⁵⁸ where taxpayers have been instructed to include formal self-education expenses at D4 on the “Tax return for individuals” form and “professional seminars, courses, conferences and workshops reference books, technical journals and trade magazines” at D5 with other work-related expenses.

The discussion paper concerned “education expenses” and began by describing the current treatment of education expenses under the existing law. Paragraph 6 introduced a new classification of education expenses as either “formal” (from a school, college, university or other place of education) or “informal” (seminars, conferences, workshops and other training). A discussion of s 82A ITAA36 and how it applies to “formal” education was included as well as information on apportionment, prepayments, depreciation and personal services income. The paper then provided some context for the \$2,000 cap policy, arguing quite strongly that deductions for education in Australia include significant private benefits and are very generous compared to other countries. It outlined ways in which the government already assists in education by providing university places, FEE-HELP, fellowships etc. The difference between “formal” self-education expenses, which are claimed at D4 on the individual return, and “informal” education expenses, which are claimed at D5, was explained by way of a footnote. Figures for total work-related deductions claimed are cited as support for the policy. However, the figures do not accurately reflect the amount taxpayers are claiming for education expenses as amounts claimed at D5 could include a variety of other work-related expenses such as trade union fees, tools and equipment, overtime meals and other expenses not related to education.

The proposed policy was discussed with details of how and to whom it will apply. Depreciation expenses would be included in the cap along with assets allocated to low value and small business pools. The method suggested for calculating the amount to allocate to a pool (para 60) is complicated and requires two separate “reasonable estimates”. The interaction of the new policy with the fringe benefits system was also discussed in detail including the application of the otherwise deductible rule. In essence, the government wished to ensure that no fringe benefits tax (FBT) liability would arise in respect of employer-provided education payments. However, the otherwise deductible rule would not apply where education was provided through a salary packing arrangement and FBT would therefore apply.

The author(s) of the discussion paper seemed to be attempting to prompt those preparing submissions by posing 15 questions,⁵⁹ although the document contained no statement as to the purpose of the questions or whether they should be answered in submissions. The questions were spread throughout the document and all 15 questions were also included again in an appendix. The first two questions asked

58 Australian Taxation Office, *Individual tax return instructions 2014* (ATO, 2014), pp 29–31.

59 See appendix 1 for a full list of the questions.

for basic information about the taxpayer's current education expenses and the third question was about the status of the taxpayer's work-related expenses. Questions four and five were more leading in nature, worded in such a way that it is assumed taxpayers support the arguments being put forward by the discussion paper. For example, question four asked for an opinion on whether significant private benefits are enjoyed by many taxpayers claiming work-related education expenses.

Some of the questions posed in the discussion paper require an advanced knowledge of taxation law and this may have deterred some taxpayers from preparing a submission or at least from answering the questions. For example, question nine asked about the advantages/disadvantages of the "reasonable estimation" method for pooled assets. Questions 13 and 14 asked about interactions with other areas of tax law and whether further amendments would be required to tax law other than those mentioned in the paper. For non-legal and non-accounting taxpayers, these questions may have proven quite difficult to address. Although it is not a requirement to answer all or any of the questions in order to make a submission, this is something that the discussion paper (and the Treasury website) failed to state. The inclusion of the 15 questions in the discussion paper may be a deterrent to those who might otherwise make a submission, especially since there is no clear statement as to what the questions represent. The next section is an analysis and discussion of the publicly available submissions.

6. The Submissions – Analysis and Discussion

Content analysis was used to empirically examine eighty-five of the submissions⁶⁰ made to Treasury in response to the discussion paper. Since public access to all submissions on the Treasury website is not available nor, with the subsequent change in government, are they likely to ever be released, the sample submissions are those made publically available on the internet by the respective respondents. They were sourced from two main areas: 65 submissions were downloaded from the #ScrapTheCap website,⁶¹ and a further 20 were located on the internet using Google. Although qualitative inquiry does not have specific rules for sample size,⁶² the validity and purpose of selecting this sample, based on availability, is that each individual case has the potential to provide information-rich data about the specific concerns and issues that are relevant to them. Furthermore, prior studies have used a similar

60 See appendix 2 for details of the 85 submissions.

61 The #ScrapTheCap alliance is a collaborative initiative to create a stakeholder movement to encourage the scrapping of the proposed cap on education expenses. Available at www.scrapthecap.com.au/submissions/.

62 M Patton, *Qualitative research and evaluation methods* (Thousand Oaks: Sage Publications, 3rd ed, 2002), p 244.

sampling strategy when examining a sample of submissions taken only from those that were publically available.⁶³

Descriptive analysis

The available submissions were analysed to determine the basic structure including the format, number of pages, whether the posed questions were answered and the source of the submission. To aid analysis, the submissions were classified into seven categories of professions using the Australian Bureau of Statistics (ABS) sub-major group classification:⁶⁴

- Art and Media Professionals
- Business, Human Resource and Marketing Professionals
- Design, Engineering, Science and Transport Professionals
- Education Professionals
- Health Professionals
- ICT Professionals
- Legal, Social and Welfare Professionals

In the sample there were no submissions from two of these categories: Art and Media or ICT. Total submissions received in each of the other categories are shown in table 2.

Table 2: Analysis of responses

Profession	Number of submissions	% of total submissions	Number written as letter	Number answered all questions	Number answered any questions
Business/HR/marketing	22	26	13	2	8
Design/engineering/science	12	14	8	0	3
Education	7	8	3	0	3
Health	37	44	15	2	19
Legal/social/welfare	7	8	3	1	1
Total	85	100	42	5	34

63 C Cortese, H Irvine and M Kaidonis, “Powerful players: how constituents captured the setting of IFRS 6, an accounting standard for the extractive industries” (2009) 34(2) *Accounting Forum* 76; Kraal and Yapa, above n 3.

64 Australian Bureau of Statistics (ABS), *Australian and New Zealand Standard classification of occupations* (ANZSCO), Version 1.2 – 1220.0 (2013). Available at www.abs.gov.au/ausstats/abs@.nsf/mf/1220.0.

The submissions took a wide variety of forms ranging from letters (one-page letters to an 84-page letter with appendices) to fully referenced, detailed reports. The majority of submissions were from professional associations representing the interests of their members. This supports Golden's earlier findings that organisations, business groups, and individuals rely heavily on their membership with professional bodies and industry associations in the consultation process.⁶⁵ Of the publically available submissions, the highest percentage originated from the health professions (44%), with the business professions the next highest at 26%. The health professions generated a high response rate through use of the #ScrapTheCap website. Interestingly, the education sector and legal, social and welfare professions equally had the least number of submissions. The submitters approached writing their submissions in a variety of ways. Twelve (14%) of the submitting organisations surveyed their members concerning the proposed policy and their submissions reported the results of their survey, sometimes in great detail. One organisation conducted two polls as well as a survey. Eleven (13%) of the sample submissions included actual case studies or examples of typical expenses and amounts incurred during a year and another four (5%) included direct quotations from members. The one unusually lengthy submission was from General Practice Registrars Australia, the organisation which managed the #ScrapTheCap website. The submission consisted of a short letter and two appendices, one containing five case studies and one containing 127 "stories" from members.

As discussed above, the discussion paper included 15 questions. However, the contentious wording of the questions themselves and the lack of clarity surrounding their purpose was reflected in only five submissions (6%) answering all 15 questions.⁶⁶ Two of the professional accounting bodies (CPA and ICAA), and the Young Lawyers responded to all 15 questions, possibly reflecting their high level of understanding of taxation law. The other three submissions that answered all 15 questions were from the health professions, which is indicative of the level of importance this profession category placed on the proposal. Interestingly, the National Tax and Accountants Association (NTAA) chose not to answer any of the questions. Only 34 (40%) of the 85 submitters in the sample chose to answer any of the questions.

It would appear that many of the questions in the discussion paper would be difficult to answer for respondents with little or no tax technical expertise, and this was reflected in many ignoring those questions, or saying "no comment". In particular, questions 8, 9 and 10 concerning low-value pools and questions 13 and 14 concerning interactions with other areas of tax law and further amendments to tax law were answered by less than 20% of total submitters in the sample. Table 3 sets out statistics on the response rates to the various questions.

65 Golden, above n 46.

66 See appendix 1.

Table 3: Analysis of questions answered by submitters

Question number	Number who answered this question	% of those who answered any question (n = 34)	% of total submissions (n = 85)
1	34	100	40
2	34	100	40
3	32	94	38
4	28	82	33
5	19	56	22
6	27	79	32
7	18	53	21
8	14	41	16
9	12	35	14
10	9	26	11
11	30	88	35
12	27	79	32
13	10	29	12
14	7	21	8
15	23	68	27

Perhaps the general lack of response to the questions can be summed up by the following quotes from two of the submitters:^{67, 68}

“We must also object to the Consultation Questions as the tenor and phrasing of the questions tends to deal more with aspects of implementation of the policy, rather than facing squarely the threshold questions of what the perceived problem is and whether the proposed policy is the best, fairest and most effective solution. The questions seem to assume that the policy will be implemented and deal with a few peripheral issues rather than genuinely consult affected parties as to whether the policy is a good idea in the first place.”

“... while we appreciate the opportunity to comment, we are concerned that the discussion paper is not genuine consultation. It asks for input on process, not on whether the policy is equitable and whether it is a wise road to travel in the first place. Therefore we have chosen not to respond to the individual points, because we see the core assumptions as flawed.”

Most submissions were written in a polite formal style, however some (such as the AMA), used very strong language, complaining about the proposal as “unequivocally

67 College of Law, Submission to Treasury, *Reform to deductions for education expenses*, 12 July 2013, p 2.

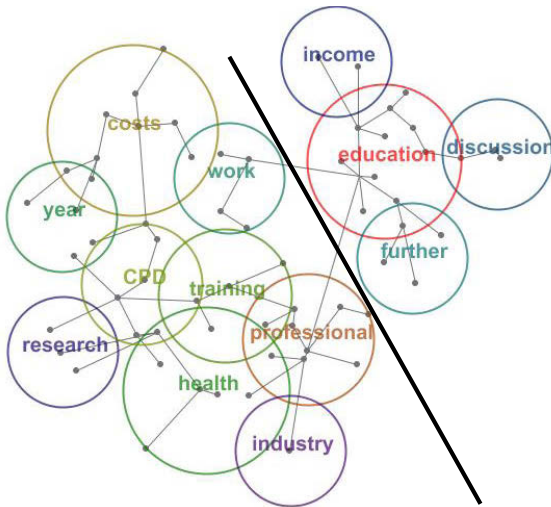
68 The Council of Private Higher Education, Submission to Treasury, *Reform to deductions for education expenses*, July 2013, p 2.

bad news” which would have a “deleterious impact” on the whole economy resulting in “unresolvable inequities”.⁶⁹

Thematic content

The computer software program “Leximancer” was used to enhance the content analysis of the submissions. Leximancer is a text analytics program that displays themes visually in a conceptual structure and has been used by other studies analysing public comment submissions to the Australian Government.⁷⁰ The conceptual maps generated highlight not only the frequency of a concept, but also the interrelatedness with other concepts.⁷¹ Leximancer was used to distil the underlying themes,⁷² which are presented in the concept map in figure 1.

Figure 1: Themes



69 Australian Medical Association (AMA), Submission to Treasury, *Reform to deductions for education expenses*, 12 July 2013, p 1.

70 Lodhia and Martin, above n 25; P Palmer, “Exploring attitudes to financial reporting in the Australian not-for-profit sector” (2013) 53(1) *Accounting & Finance* 217.

71 Leximancer, *Leximancer: the why, not just the what Leximancer Manual, Version 3.07* (Leximancer Pty Ltd, 2009).

72 Leximancer “themes” represent clusters of concepts that have a degree of connectedness. Size is not important as it just represents the boundary; however, the colour of the theme does signify importance (hot colours such as red and orange are the most important and cool colours such as blue and green are the least important). The number of concepts present within the themes reflects the relevance of that theme.

This concept map clearly shows a distinct delineation between education and ongoing professional development. The map reveals the differences in the foci of the submissions with the theme of education being the most important and underpinning all other themes. Professional, costs, CPD and training are the next most important themes. This is best reflected by the thematic summary in table 4. This thematic summary, produced by Leximancer, shows the most important theme is education ranking at 100%, which is as expected given that the proposed policy concerned capping education deductions. The other themes are assessed on their connectedness with the education theme — so the percentages given reflect a relative strength as compared to the main theme.

Table 4: Thematic summary

Theme	Connectivity
education	100%
professional	42%
costs	31%
CPD	25%
training	17%
health	14%
year	12%
work	11%
further	8%
discussion	7%
income	5%
research	4%
industry	2%

Although “education” was the dominant theme, the focus was not on issues with formal education such as tertiary education courses, but on costs of CPD training as a professional. This reflects the broadening of the self-education expense definition to include “informal” education such as conferences and seminars (rather than focusing only on “formal” education), a change that has a direct impact on many professionals. The impact of the proposed policy on professionals is clear as it ranks second in importance. This sentiment expressed by FINSIA was shared by many of the professions:⁷³ “continuing professional education is a prerequisite for a continuing right to practice”.⁷⁴

73 For example, CPA Australia, Submission to Treasury, *Reform to deductions for education expenses*, 15 July 2013; Australian Veterinary Association, Submission to Treasury, *Reform to deductions for education expenses*, 8 July 2013; Australian Osteopathic Association, Submission to Treasury, *Reform to deductions for education expenses*, 8 July 2013; Pharmaceutical Society of Australia, Submission to Treasury, *Reform to deductions for education expenses*, 12 July 2013.

74 FINSIA, Submission to Treasury, *Reform to deductions for education expenses*, 12 July 2013, p 1.

discussion paper. However, some submitters did pick up on the issue as demonstrated by the following quotations:

“The definition of ‘work-related education expenses’ in the consultation paper includes a range of work-related expenses that are not associated with education.”⁷⁵

“The proposed restriction on deduction of self-education expenses adopts an inappropriate distinction between self-education expenses and other work related expenses.”⁷⁶

“NSWYL notes there is insufficient definition of the term ‘education expenses’ and recommends the term be formally defined in a limited manner.”⁷⁷

Several submissions made suggestions as to alternatives to the proposed \$2,000 cap with some suggesting that if the policy must be introduced, then the cap should be much higher (\$5,000 or \$10,000) or perhaps only be imposed on very high-income earners. The context for the policy was largely around removing the ability for individuals to obtain a deduction for education while enjoying significant private benefits. A common recommendation was to differentiate accommodation and travel costs from education expenses by either monitoring them closely or limiting amounts. The view taken, however, was that conferences and seminars themselves should remain fully deductible. Many recognised that current tax law was quite adequate in its provisions preventing the deduction of expenses for private use. In an extension of a theme discussed earlier, some submitters suggested exempting those who live in rural areas.

Self-interest was explicit in some submissions where the government was requested to exempt or give special consideration to particular groups. For example, the Royal Australasian College of Surgeons suggested industry-specific caps or a sliding scale more closely related to the costs of education and CPD in specific professions.⁷⁸ Migration Institute of Australia requested that registered migration agents be exempt from the cap, including CPD,⁷⁹ and the Victorian Healthcare Association recommended that individual nurses, midwives, allied health practitioners and

75 Association of Australian Medical Research Institutes, Submission to Treasury, *Reform to deductions for education expenses*, 12 July 2013, p 2.

76 BDO, Submission to Treasury, *Reform to deductions for education expenses*, 12 July 2013, p 4.

77 NSW Young Lawyers, Submission to Treasury, *Reform to deductions for education expenses*, 12 July 2013, p 2.

78 Royal Australasian College of Surgeons, Submission to Treasury, *Reform to deductions for education expenses*, July 2013, p 4.

79 Migration Institute of Australia, Submission to Treasury, *Reform to deductions for education expenses*, 10 July 2013, p 2.

medical staff employed by public and not-for-profit health services be exempt.⁸⁰ Although the ABDC⁸¹ wanted universities to be exempt, they did discuss the broader picture and the impact on industry, economy and government, but through the lens of university studies only. Some groups took a broader view when commenting on the proposed cap, not mentioning their own profession but making comment on the bigger picture.⁸² A few submissions were from associations of businesses⁸³ who, although not directly impacted, recognised that their clients were and therefore the impact would indirectly affect them; for example, a limit to deductions for conferences.

Many in the sample included explanations relating to the public benefit by identifying problems with both the policy and the process: “poor policy and poor process”.⁸⁴ One submitter argued that this was reflected in the narrowness of the discussion paper by only focusing on “the mechanics of the taxation change and the impact on legislation and related tax regulations”. They argued that the peak bodies were recognising “the potential impact of the proposal to cap deductibility of education expenses on Australian workforce development, business productivity and innovation”.⁸⁵ Another peak body, in reflecting on the negative national response from professional associations to the policy, explained that such a response was:⁸⁶

“not just because of the effect on their members’ personal interests, but reflects a genuine concern that the architects of the proposal are unaware of, or simply ignored, the broader social and economic implications of the proposal.”

Yet another peak body noted frustration in the government failing to “clarify the mischief they are seeking to address”.⁸⁷

Many commented on how the proposed policy was at odds with previous government policies such as the “whole of government approach to public policy”,⁸⁸ “national

80 Victorian Healthcare Association, Submission to Treasury, *Reform to deductions for education expenses*, 2 August 2013, p 6.

81 Australian Business Dean’s Council, Submission to Treasury, *Reform to deductions for education expenses*, 12 July 2013.

82 For example, BDO, Submission to Treasury, *Reform to deductions for education expenses*, 12 July 2013.

83 For example, Association of Australian Convention Bureaux, Submission to Treasury, *Reform to deductions for education expenses*, 12 July 2013.

84 Australian Chamber of Commerce and Industry, Submission to Treasury, *Reform to deductions for education expenses*, July 2013, p 11.

85 Ibid.

86 Universities Australia, Submission to Treasury, *Reform to deductions for education expenses*, July 2013, p 4.

87 CPA Australia, above n 73, p 2.

88 Australian College of Nursing, Australian Primary Health Care Nurses Association and Australian College of Midwives, Submission to Treasury, *Reform to deductions for education expenses*, July 2013, p 5.

economic policy framework”⁸⁹ and “White paper on the Asian century”,⁹⁰ as it directly contradicted the heavy emphasis previously placed on the “importance of a knowledge-based economy, skills development and productivity improvement”.⁹¹ It was therefore felt that the “policy impacts of the proposed changes” were not addressed.⁹² This lack of consistency with policy changes led one submitter to declare the proposed policy was of a “profoundly flawed nature”.⁹³

With such a change in policy, it would be expected that Treasury would have had prior consultation with the peak bodies. However, this appeared not to be the case as submitters identified the “lack of process of consultation and policy analysis”⁹⁴ and noted that “no consultation prior to the approval and release of the reforms was undertaken with peak professional and educational bodies to determine the need for a change to existing policy”.⁹⁵ Despite their differences, the 85 submissions were overwhelmingly opposed to the introduction of the cap with none seeing any positive outcomes from such a policy.

Treasury has been quoted as saying that “unsuccessful consultations are unsuccessful in their own way”,⁹⁶ which implies that the process has unique characteristics when it fails. Notwithstanding that there was a public consultation process, the government failed to make a convincing case for the reform proposal. Tran-Nam and Evans argue that for tax reforms to be successful, regulators should first consider: (1) the likelihood of wide acceptance; (2) the revenue impact; and (3) whether or not it meets simplification aims.⁹⁷ This particular consultation had problems not only with a lack of general acceptance for the actual policy and its aims, but also with the wording of the discussion paper and the consultation procedure itself.

The discussion paper focused heavily on promoting a sense of public interest. It outlined existing government assistance for education, and highlighted a perceived abuse of the tax system where taxpayers were claiming education expenses on items for which there was a significant private use benefit, such as first class airfares.

89 Universities Australia, above n 86.

90 Chartered Secretaries Australia, Submission to Treasury, *Reform to deductions for education expenses*, 12 July 2013, p 2.

91 Australian Chamber of Commerce and Industry, above n 84, p 1.

92 Institute of Public Accountants, Submission to Treasury, *Reform to deductions for education expenses*, July 2013, p 4.

93 Tax Institute and Law Council of Australia, Submission to Treasury, *Reform to deductions for education expenses*, 16 July 2013, p 1.

94 Australian Chamber of Commerce and Industry, above n 84, p 1.

95 Australian Council of Private Education and Training, Submission to Treasury, *Reform to deductions for education expenses*, 11 July 2013, p 1.

96 Commonwealth of Australia, Treasury, *Treasury's approach to tax consultation: second submission to the Board of Taxation's review of the report on the tax design review panel* (21 September 2011).

97 B Tran-Nam and C Evans, “Tax policy simplification: an evaluation of the proposal for a standard deduction for work related expenses”, paper presented at the Australian Tax Forum, 2012.

Public interest theory suggests that such regulatory reforms are proposed by governments intervening to protect the public interest.⁹⁸ However, when it becomes apparent that inputs, processes and outcomes of the consultation procedures are subject to manipulation by self-interested parties, including the regulator, the simplistic and idealistic nature of public interest theory is evident.⁹⁹ The current study found, for example, that the authors of the discussion paper appeared to structure questions so as to prompt affirmative responses, assume underlying support, and/or deter responses by making questions difficult to answer for anyone other than tax experts. Only 6% of the submissions analysed answered all 15 questions and a total of 60% did not answer any of the posed questions. It is difficult to assess how answers to the posed questions are used and in what way they may or may not be influential, since it was beyond the scope of this study to interview Treasury personnel or other government decision makers concerning the outcomes of this consultation. However, the significance of these findings is that the framing of the questions, together with the urgency with which the education deduction cap was proposed, and the lack of any targeted consultation, seemingly left policymakers out of touch with the concerns and sentiments of the public.

7. Concluding Comments

This article has reviewed participation by the public in the tax consultation process. It has investigated this topic by reference to the specific policy proposed by the Gillard Labor Government in 2013 of a \$2,000 cap on education expense deductions. Although the policy was ultimately abandoned, it is argued, from a regulation theory perspective, that the consultation process itself should still be subject to scrutiny and suggestions for improvement. Theories of regulation hold that economic, social and political effects influence self-interested parties and combine with public interest objectives to inform legislatures, who are themselves vulnerable to private interest viewpoints. Chalmers et al point out that “public and private interests do not necessarily yield contradictory outcomes”.¹⁰⁰ Prior research has consistently identified the political nature of reforms in this area.¹⁰¹ Eccleston explains that any attempt to remove what the public perceive as “a right”, or to undermine their perception of fairness, particularly in relation to taxation, risks “significant political backlash”.¹⁰² What’s more, any attempt to reduce allowances available to select groups of taxpayers

98 Chalmers, Godfrey and Lynch, above n 36.

99 Lodhia and Martin, above n 25.

100 Chalmers, Godfrey and Lynch, above n 36, p 1013.

101 Eccleston, above n 32; Justice R Edmonds, “A judicial perspective on tax reform” (2011) 35 *Melbourne University Law Review* 236; S James, I Wallschutzky and C Alley, “The Henry Report and the taxation of work related expenses: principles versus practice” (2013) 11(2) *Journal of Finance and Management in Public Services* 46; Kraal, above n 30; Tran-Nam and Evans, above n 97.

102 Eccleston, above n 32.

risks remonstrance through collective action. It provides “the greatest incentive [for them] to mobilise politically to protect their tax concessions”.¹⁰³ This is exactly what eventuated in response to the May 2013 discussion paper.

The #ScrapTheCap alliance, an organisation of 99 professional and industry groups representing over two million members¹⁰⁴ and led by arguably some of the most politically powerful groups in the country, joined forces to campaign against the proposed tax reform. In July 2013, then Shadow Education Minister Christopher Pyne announced his opposition to the policy, following his meeting with members of some of the professional bodies forming the #ScrapTheCap alliance. These organisations effectively communicated strong opposition to the proposed policy outside of the formal consultation process. Our findings suggest that difficulties in this case may have also arisen from the government initially failing to make a convincing case for the reform proposal. There were several issues with the process itself including confusion surrounding the initial press release, the time allowed for submissions and the structure and wording of the discussion paper, in particular the questions posed. The finalisation of the consultation process was also unsatisfactory with regard to two of the objectives set by the Board of Taxation: transparency of information and process; and open and timely feedback of results. Specifically, more than 18 months after the closing date, the actual submissions to Treasury remained unavailable.

Treasury has identified the building of relationships and dialogue with the peak professional bodies as one of its key purposes in the consultation process.¹⁰⁵ However, in this instance, some submitters commented that Treasury should have conducted a more targeted consultation prior to making the discussion paper available for public consultation. This view, together with an impression — created by the wording of the discussion paper — of a seemingly certain introduction of the policy, may have contributed to the discussion paper questions being largely unanswered by submitters.

Analysing the publicly available submissions to the discussion paper using Leximancer provided clarity as to the key similarities and differences of the submissions expressed in broad themes. A more detailed reading of submissions confirmed confusion arising from the broadened definition of self-education work-related deductions to include more than education undertaken through formal education providers. The arguments against the proposal were generally in two distinct groups — those submissions that argued the bigger picture viewpoint on education and those focused on their own

103 Eccleston, above n 32, p 17.

104 T Dodd, “Uni ‘scrapthecap’ lobbyists win repeal” *Australian Financial Review* (online), 7 November 2013. Available at www.afr.com/p/national/uni_scrap_the_cap_lobbyists_win_m4xYShq2zXxk9U4jgTGwCJ; Universities Australia, “The cap has been #Scrapped” (media release, no. 54/13, 6 November 2013). Available at www.universitiesaustralia.edu.au/news/media-releases/The-Cap-has-been--Scrapped#.U-tLGfmSySo.

105 Treasury, above n 16, p 8.

profession and the associated CPD (including seminars and conferences), which supports private interest theory. Continuing professional education underpins many professions and to limit the deductions available for CPD seems very difficult for a government without understanding the affected professions. Perhaps there should have been some consultation with the professions before the policy announcement was made. This may have resulted in a significantly different policy to the one that was proposed after increasing the government's awareness of some of the issues it had not considered in the first instance; it may have also increased the public's confidence in the consultation process.

This study is limited by having access only to the submissions made publicly available on the internet, as none were available from Treasury. Consequently, there is no guarantee that the sample is representative of the population as far as industry and the number of individual submissions is concerned. In contrast to Kraal and Yapa's research, where submissions from major stakeholders were closed from public access,¹⁰⁶ it was only through the posting of submissions on the internet that submissions for the current study were available. It would appear that Kraal and Yapa's recommendation of all submissions being made public¹⁰⁷ has been overlooked, and reinforces Treasury's own reflection that "[t]he Government side has to learn to hold things less tightly".¹⁰⁸ If the government is trying to demonstrate that it is acting in the best interests of the public (following public interest theory), it must clearly state its policy intent for the benefit of the general public. Submitters may then be more able to appreciate the public benefit, rather than solely focus on their own self-interest. It is only through an open and transparent process where all submissions can be accessed that the public will be able to examine the input of others, and therefore more fully understand the government's ultimate position.

The consultation process has come a long way in 14 years, from an "almost exclusively confidential consultation (in the early 2000s), to a position of almost exclusively open public consultation",¹⁰⁹ so it is understandable that the government would still feel the need to control the access to submissions concerning controversial policies. However, it is only through an analysis of such submissions that both the government and the submitters will understand how to communicate to achieve improved consultation outcomes.

106 Kraal and Yapa, above n 3, p 509.

107 Ibid pp 511–512.

108 Treasury, above n 16, pp 8–9.

109 Ibid.

Appendix 1: Questions from the discussion paper

1. In your industry or field, are there studies or courses that are compulsory and must be completed in order to meet licence requirements?
 - (a) What is the average amount of the expense?
 - (b) What is the highest amount of the expense?
 - (c) What is the nature of these courses?
2. Is training undertaken in your industry predominantly held in Australia or overseas? Can you provide examples?
3. In employment relationships, are employees largely obliged to incur workrelated education expenses themselves or are they employer provided? Do you anticipate this changing in response to this measure?
4. Are you aware of examples where education expense deductions can be claimed under the current arrangements, even where significant private benefits are enjoyed?
5. Are there any lessons for Australia in the experiences of other countries with restrictions on education expenses deductions?
6. Should the \$250 noclaim threshold under section 82A of the ITAA 1936 be removed when the \$2000 cap is introduced?
7. How should this be prioritised?
8. What types of assets that relate to an education activity are placed into a lowvalue pool or similar small business pool?
9. What are the advantages/disadvantages of the 'reasonable estimation' method proposed above?
10. Is the use of lowvalue pools under these circumstances appropriate?
11. Are there any unintended consequences from the proposed reforms?
12. What practical aspects of the proposed reforms need further consideration?

13. Are there any interactions with other areas of the tax law that need to be addressed?
14. Do you consider that further amendments will be required to the tax law outside of those already mentioned in the discussion paper?
15. Are there alternative approaches that you would like to see considered? How would they work in practice and are there any precedents in Australia or other jurisdictions?

Appendix 2: Submissions publicly available on internet

Name of submitter	Pages	Type	Answered questions
Business, Human Resource and Marketing			
*Assoc of Australian Convention Bureaux Inc	6	Letter	No
*Associations Forum	5	Report	No
*Australian Chamber of Commerce and Industry (ACCI)	17	Report	No
*Australian Human Resources Institute Limited (AHRI)	4	Letter	1 to 10
*Australian Institute of Company Directors (AICD)	3	Letter	No
*Australian Institute of Training and Development (AITD)	6	Report	No
*Australian Library and Information Assoc (ALIA)	3	Letter	No
Avant Mutual Group Limited	4	Report	1,2,3,11
*BDO Australia	8	Letter/ appendix	No
*Chartered Secretaries Australia	18	Letter/ appendix	1 to 15 with 8 to 10,14 NC
*CPA Australia	12	Letter/ appendix	1 to 15
Facility Management Association of Australia (FMA)	9	Report	1 to 5,8,9,11,12,15
*Financial Planning Association of Australia	9	Letter/ appendix	1 to 3,6,11,15
*Financial Services Council (FSC)	2	Letter	No
*Financial Services Institute of Australasia (Finsia)	2	Letter	No
*Institute of Chartered Accountants Australia (ICAA)	13	Letter/ appendix	1 to 15
*Institute of Public Accountants (IPA)	12	Report	No
*Local Government Managers Australia (LGMA)	3	Report	No
*Mortgage and Finance Association of Australia	5	Report	No

National Tax and Accountants Assoc - NTAA	8	Letter	1 to 6,11,12
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*Real Estate Institute of Australia (REIA)	4	Report	No
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*Vita Gustafson & Associates	3	Letter	No
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Total submissions from Business, Human Resource and Marketing = 22

Design, Engineering, Science and Transport

The Association of Professional Engineers, Scientists and Managers	6	Letter	No
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*Australasian College of Physical Scientists and Engineers in Medicine	7	Letter	No
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*Australasian Institute of Mining and Metallurgy (AusIMM)	8	Report	No
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*Australian Geoscience Council Inc. (AGC)	4	Report	No
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*Australian Institute of Architects	2	Letter	No
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*Australian Institute of Building (AIB)	5	Report	1 to 15 with 10 NC
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*Australian Veterinary Association (AVA)	4	Report	No
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*Consult Australia	3	Letter	1 to 4,6,7,11,12,15
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*Engineers Australia	6	Letter	No
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The Green Building Council of Australia	3	Letter	No
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*The Planning Institute of Australia	5	Letter/ appendix	1 to 14 with 5,7,13,14 NC
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*Safety Institute of Australia Ltd	2	Letter	No
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Total submissions from Design, Engineering, Science and Transport = 12

Education

Australian Business Deans Council (ABDC)	5	Letter	No
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*Australian Council for Private Education and Training	2	Letter	No
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*Committee of Presidents of Medical Colleges	6	Report	1 to 15 with 8,9,10,13,14 NC
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*Council of Private Higher Education Incorporated (COPHE)	2	Report	No
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*Research Australia	14	Report	1 to 15 with 8,9,10,13,14 NC
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The College of Law	3	Letter	1,2,11,13,15
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*Universities Australia	24	Report	No
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Total submissions from Education = 7

Health

*Association of Australian Medical Research Institutes (AAMRI)	9	Report	1 to 15 with 7,8,9,10,14 NC
*Aust. College of Nursing (CAN), Aust. Primary Health Care Nurses Ass. (APNA) & Aust. College of Midwives (ACM)	14	Letter/ attached report	No
*Australasian Association of Nuclear Medicine Specialists (AANMS)	6	Report	No
*Australasian College for Emergency Medicine (ACEM)	5	Report	No
*Australasian Sleep Association	2	Report	No
*Australian Association of Practice Managers (AAPM)	2	Letter	No
*Australian College of Nurse Practitioners (ACNP)	4	Letter	No
*Australian College of Optometry (ACO)	7	Letter	1 to 4,11
*Australian Dental Association Inc. (ADA)	13	Report	1 to 3
*Australian Dental Association Victorian Branch (ADAVB)	4	Letter	No
*Australian Dental Association (NSW Branch)	14	Report	1 to 15
*Australian Dental Association NSW Branch Centre for Professional Development	8	Letter	No
Australian Dental Industry Association (ADIA)	14	Report	1 to 15
Australian Institute of Medical Scientists	3	Letter	No
*Australian Medical Association (AMA)	13	Report	No
*Australian Medical Association Victoria	2	Letter	No
*Australian Nursing Federation (ANF)	10	Report	No
*Australian Orthopaedic Association (AOA)	5	Report	1 to 15 with 8,10,13 to 15 NC
*Australian Osteopathic Association (AOA)	5	Report	1 to 15 with 5,7,10,13,14 NC

*Australian Physiotherapy Association (APA)	5	Letter	1 to 15 with 5,7,8,9,10,13,14 NC
*Australian Psychological Society (APS)	15	Report	1 to 15 with 8,9,10,13,14 NC
Dr Mark Suss - MBBS, FANZCA, GDipClinEpi, PGDipEcho, GAICD (consultant anaesthetist)	8	Letter	1 to 15 with 7 NC
*Exercise & Sports Science	7	Letter/ appendix	1 to 4,6 to 12,15
*General Practice Registrars Australia	84	Letter/ appendix	No
*National Association of Practising Psychiatrists	24	Report	1,2,11,12
*Occupational Therapy Australia	5	Report	1 to 4 with 5 NC
*Pharmaceutical Society of Australia Ltd	16	Report	1 to 4,6,7,11,12,15
*Pharmacy Guild of Australia	12	Report	1 to 15 with 9,10,13,14 NC
*Psychotherapy and Counselling Federation of Australia (PACFA)	10	Report	1 to 4,6,11,12,15
*The Royal Australasian College of Physicians	6	Report	1 to 15 with 8 to 14 NC
*Royal Australasian College of Surgeons	4	Report	No
The Royal Australian and New Zealand College of Ophthalmologists	5	Letter	No
*Royal Australian and New Zealand College of Radiologists (RANZCR)	2	Letter	No
*Royal Australian College of General Practitioners (RACGP)	8	Report	No
*Rural Doctors Ass. of Australia (RDAA)	3	Letter	No
The Victorian Association of Psychoanalytic Psychotherapists	12	Report	1 to 15 with 9,10,13,14 NC
*Victorian Healthcare Association's (VHA)	6	Report	1,2,3,6,11,12
<i>Total submissions from Health = 37</i>			
Legal, Social and Welfare Professionals			
Aged and Community Care Aust (ACSA)	3	Report	No
*Australian Association of Social Workers	8	Report	No
*Bar Association of Queensland (BAQ)	7	Letter	No

*Economic Security4Women (economic S4W) and APESMA	3	Letter	No
*Migration Institute of Australia	2	Letter	No
NSW Young Lawyers (NSWYL)	13	Report	1 to 15
*Tax Institute and the Business Law Section of the Law Council of Australia (Joint Bodies)	17	Letter/ appendix	No

Total submissions from Legal and Social Welfare = 7

Total submissions in sample = 85

*member of #ScrapTheCap alliance

NC = no comment