

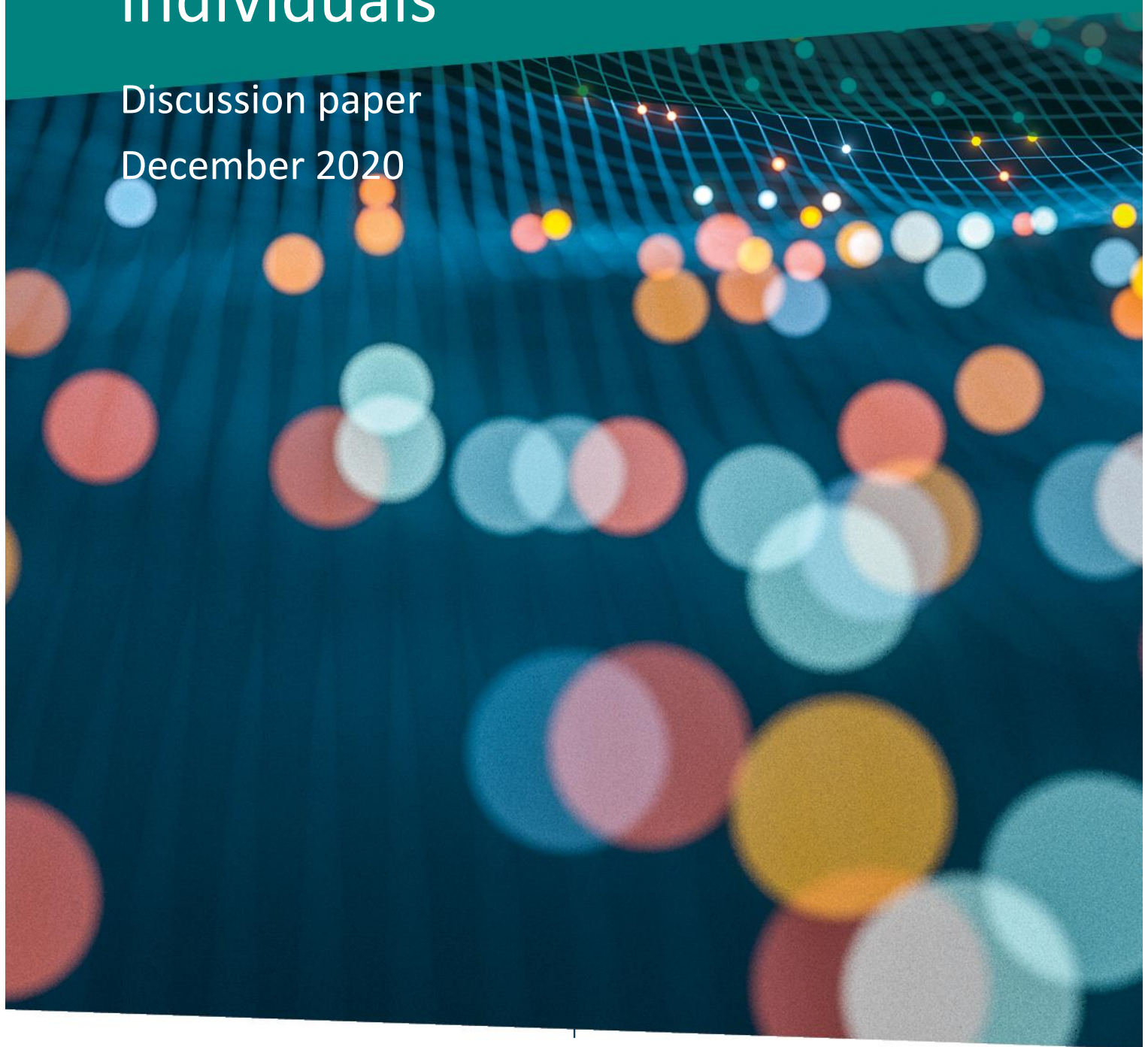


Australian Government  
The Treasury

**TSY/AU**

# Education and training expense deductions for individuals

Discussion paper  
December 2020



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# Contents

- Contents .....iii**
- Consultation process .....1**
  - Request for feedback and comments .....1
- Background .....2**
- Current arrangements .....2**
  - Self-education expense deductions .....2
    - First \$250 of self-education expenses is not deductible.....3
    - Expenses must be incurred by the individual .....3
    - Links with fringe benefits tax .....3
- Overview of education and training in Australia.....3**
  - Higher education .....4
  - Vocational education and training (VET) .....4
- Other Government support for retraining .....5**
  - Commonwealth Supported Places (CSP).....5
  - Higher Education Loan Program (HELP) and related loans schemes .....5
  - Other recent initiatives .....6
- Consultation on potential changes .....7**
- Tax policy settings .....7**
- Parameters of any new deduction .....7**
  - What training courses would be eligible for any new expense deduction? .....7
  - What expenses should be deductible? .....8
  - Government funded training / education.....8
  - Claiming any new deduction .....9
  - First \$250 of self-education expenses is not deductible.....10
- Safeguarding the tax system .....10**

# Consultation process

## Request for feedback and comments

The purpose of this discussion paper is to seek comments on allowing deductions for education and training expenses not associated with current employment activities. Interested parties are invited to comment on the policy implications and design of any change.

While submissions may be lodged electronically or by post, electronic lodgement is preferred. For accessibility reasons, please submit responses sent via email in a Word or RTF format. An additional PDF version may also be submitted. All information (including name and address details) contained in submissions will be made available to the public on the Treasury website unless you indicate that you would like all or part of your submission to remain in confidence. Automatically generated confidentiality statements in emails are not sufficient for this purpose. If you would like only part of your submission to remain confidential, please provide this information clearly marked as such in a separate attachment.

### Closing date for submissions: 22 January 2021

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The potential changes outlined in this paper have not received Government approval and are not yet law. As a consequence, this paper is merely a guide as to how any potential changes might operate.

## Background

In the 2020-21 Budget, the Government announced that it would consult on allowing individuals to deduct education and training expenses they incur, where the expense is *not* related to their current employment. Individuals can currently deduct education or training expenses they incur that are sufficiently related to their current employment, reflecting the general principle in the income tax law that allows deductions for expenses incurred in the course of earning assessable income.

With the changing labour market, people no longer expect a job for life, and may have multiple careers over their lifetime. Furthermore, the increased rate of globalisation and technological change, the changing nature of work and the labour market are among the forces driving the need for continued upgrading of skills throughout life.<sup>1</sup>

Against this background, this discussion paper seeks stakeholder views on whether tax arrangements should play a greater role in encouraging Australians to retrain and reskill to support their future employment and career and, if so, how this would best be achieved.

Note: In the 2020-21 Budget, the Government also introduced an exemption from fringe benefits tax (FBT) for employer-provided retraining and reskilling benefits provided to redundant, or soon to be redundant, employees where the benefits are not related to their current employment. This change will require legislative amendment and will apply from the date of announcement (2 October 2020). The Government will consult separately on the implementation of this measure.

## Current arrangements

Under Australia's income tax law, a tax deduction is generally allowed for, and limited to, expenses incurred in gaining or producing assessable income. A deduction, however, is not allowed for expenses to the extent to which they are private or domestic in nature.

The Australian personal income tax system taxes the income of individuals, less any deductions for expenses incurred in earning that income. This recognises that people may incur different expenses in earning a given level of income. Individuals may be eligible to claim deductions for a range of expenses incurred in earning their income, including work-related expenses (such as travel, clothing, laundry, home office, and self-education expenses), costs of managing tax affairs and interest repayments on investments.

Deductions reduce the amount of income tax payable at an individual's marginal rate. This means that those with higher marginal tax rates receive a greater benefit from a deduction. Further, only those with a personal income tax liability can directly benefit from a tax deduction. However, where an individual's deductions are greater than their income, generally tax losses can be carried into future years.

## Self-education expense deductions

Currently, a deduction for self-education expenses can be claimed when the education activity is directly connected to the income arising from an individual's current employment activities. That is, the education activity either maintains or improves the specific skills required for that employment or leads to an increased income in the individual's current employment.

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<sup>1</sup> Soni, S. (2012), Lifelong Learning – Education and Training, FIG Working Week 2012.

Conversely, individuals cannot claim a deduction for education and training expenses that do not have a sufficient connection to their current employment, even if it may lead to new employment.

Generally, deductible education and training expenses can include course or tuition fees, costs for textbooks and stationery, depreciation of certain assets (such as laptops) and certain travel expenses to a place of education. Expenses that are not deductible for individuals undertaking study include student contributions towards Commonwealth supported places (CSPs) at universities such as repayments of Higher Education Loan Program (HELP) loans, home office occupancy expenses (such as rent, mortgage interest or rates) and reimbursed costs.

### First \$250 of self-education expenses is not deductible

The first \$250 of a 'prescribed course of education' expense is not deductible. A prescribed course of education is a course of education provided by a school, college, university or other place of education, and undertaken by an individual for the purpose of gaining qualifications for use in the carrying on of a profession, business or trade or in the course of any employment.

However certain expenses that are compulsory and unavoidable, but are not otherwise deductible, can be used to offset against the \$250 reduction (for example, childcare while attending self-education activities).

### Expenses must be incurred by the individual

Individuals are not eligible for a deduction where they do not ultimately incur the costs themselves. For example, expenses incurred by an employer (or alternatively reimbursed by an employer) for training provided to an individual are not deductible to the individual.

### Links with fringe benefits tax

Currently, employers incurring (or reimbursing) expenses for education and training provided to employees that is related to their current employment are generally not liable for FBT on those benefits through the operation of the 'otherwise deductible rule'. This rule operates to reduce the taxable value of a benefit by the amount the employee would have been entitled to claim as an income tax deduction had they not been reimbursed or had they incurred the expenditure themselves. For eligible expenses, this effectively reduces the taxable value of the fringe benefit to nil. For employers that provide any tertiary education and training benefits for their employees, the new deduction will mean that the otherwise deductible rule may apply to these benefits.

In the 2020-21 Budget, the Government announced it would exempt from FBT employer-provided retraining and reskilling benefits given to redundant, or soon to be redundant, employees where the benefits may not relate to their current employment. This change will require legislative amendment and will apply from the date of announcement (2 October 2020).

## Overview of education and training in Australia

The Government's objective is to ensure Australians can experience the wellbeing and economic benefits that quality education, skills and employment provide. In a competitive global environment, Australia's tertiary education system is helping individuals to develop the higher education and vocational skills they need to secure and maintain rewarding and sustainable employment.

The tertiary education sector comprises higher education and vocational education and training (VET). It includes public and private universities and non-university higher education providers (NUHEPs), and Registered Training Organisations (RTOs), including private and community providers and state and territory government owned technical and further education (TAFE) institutes.

## Higher education

The Government provides considerable support for higher education. On 27 October 2020, the *Higher Education Support Amendment (Job-Ready Graduates and Supporting Regional and Remote Students) Act 2020* received Royal Assent. Starting next year under this package:

- There will be more university places for Australian students, growing to 100,000 additional places in 10 years.
- Regional students and regional universities will benefit from additional support worth more than \$400 million, including access to a \$5,000 Tertiary Access Payment to help with relocation costs.
- Students will pay less to study in areas of expected future job demand, with discounted fees for teaching, nursing, clinical psychology, English, languages, agriculture, maths, science, health, architecture, environmental science, information technology and engineering.
- A \$900 million National Priorities and Industry Linkage Fund will support universities to work with local industry to produce job-ready graduates.

The 2020-21 Budget also provided \$550 million for 12,000 extra university places and 50,000 short course places for Australians to upskill or reskill.

The national regulator for higher education is the Tertiary Education Quality and Standards Agency (TEQSA). All organisations that offer higher education qualifications in or from Australia, must be registered by TEQSA. Higher education providers that have not been granted self-accrediting authority (almost all the non-university providers) must also have their courses of study accredited by TEQSA.

## Vocational education and training (VET)

VET is central to Australia's economic growth and business productivity. Australia's VET system provides training for a wide range of workplace skills and knowledge-based competencies for a wide range of occupations, through a variety of training institutions and enterprises. Australian industry plays a leading role in the VET system to ensure the sector drives improvements in productivity and competitiveness across the economy.

As part of its Economic Response to COVID-19, the Australian Government is providing free or low-fee training courses across the nation through its \$1 billion JobTrainer Fund. The Australian Government is providing \$500 million in 2020-21 and this is being matched by contributions from state and territory governments.

The JobTrainer Fund will provide around 320,000 additional training places that are free or low-fee, in areas of identified skills need such as health, aged and disability care, IT and trades for job seekers and young people, including school leavers.

The Government is also providing funding for 100,000 new apprenticeships in the 2020-21 Budget.

The Government will introduce a 50 per cent wage subsidy for all businesses that take on new apprentices over the period 5 October 2020 to 30 September 2021. The \$1.2 billion Boosting Apprenticeship Commencements wage subsidy will support 100,000 new apprentices. The subsidy will be capped at \$7,000 per quarter for gross wages for new apprentices and trainees.

Australia's VET sector comprises over 4,000 RTOs, including TAFE institutes, private and community based RTOs. RTOs deliver nationally recognised training, including both industry training and private courses accredited by VET regulators.

RTOs are regulated by the Australian Skills Quality Authority (ASQA) and by state regulators in Victoria and Western Australia – Victorian Registration and Qualifications Authority (VRQA) and the Training Accreditation Council Western Australia (TAC).

## Other Government support for retraining

The Government provides a number of other programs and assistance to assist with education and training.

Investing in apprenticeships, creating jobs and boosting the skills of Australians to help them get back into work is at the heart of the Government's Economic Recovery Plan for Australia. These services include supporting Australia's tertiary education system through funding certainty for universities, while delivering more VET and higher education places, short courses and investing in research.

States and territories are responsible for subsidising VET training in areas of skills priority in each jurisdiction, with a funding contribution from the Commonwealth under the National Agreement on Skills and Workforce Development.

Encouraging the workforce to offer their skills and taking steps to provide incentives for the workforce to upskill and retrain is important for an economy to realise sustained growth in future workforce participation and labour productivity.

### Commonwealth Supported Places (CSP)

CSPs are one of the key government funding programs that subsidise a proportion of the cost for a student to attend university.

In 2019, there were approximately 830,000 CSP students in Australia compared with almost 200,000 fee-paying students. Nearly all (99.8 per cent) of CSP students study at publicly funded universities compared with 70 per cent of fee paying students. Private universities and NUHEPs account for the remaining students. The majority (around 89 per cent) of CSP students study bachelor degree courses, around 9 per cent study postgraduate courses and close to 3 per cent study sub-bachelor courses.

### Higher Education Loan Program (HELP) and related loans schemes

HELP provides loans to students studying approved higher education courses to assist with the costs of their study. The scheme allows students to defer the costs of tuition until their taxable income reaches a certain level at which repayments commence.

Commonwealth government funded VET Student Loans are available for eligible students that cover tuition fees for approved higher level VET courses (diploma and above). A maximum loan cap applies to these loans.

The major category of loan under the HELP scheme, HECS-HELP, is available to students enrolled in CSPs, and covers most domestic undergraduate and some coursework postgraduate students studying at Australian universities.

FEE-HELP is available to domestic full fee-paying higher education students to pay their tuition fees. These students are generally studying at private higher education institutions or are undertaking postgraduate coursework qualifications for which there is no CSP. Similarly, VET Student Loans cover tuition costs for students undertaking approved VET courses.

SA-HELP provides a loan to pay all or part of the student services and amenities fee charged by most higher education providers.

Students enrolled in CSPs who undertake part of their studies overseas (typically on exchange or to undertake a work-based placement) are able to access OS-HELP. Unlike the other loans, which are paid to the provider by the Government on behalf of the student, OS-HELP loans are paid to the student. These loans are intended to cover costs such as airfares and accommodation, but there is no requirement for students to justify the loan amount (up to the maximum available).



## Other recent initiatives

### Short courses

In 2020, the Government introduced short courses into the higher education landscape. The focus of the short courses initiative is to provide opportunities to upskill or reskill in national priority areas such as teaching, agriculture, health, science, engineering, clinical psychology, information technology and languages.

As part of the 2020-21 Budget, the Government is funding an additional 50,000 subsidised short course places across a range of discipline areas to support upskilling and retraining.

### Support for increased skills acquisition for existing workers

#### **Women in Science, Technology, Engineering or Mathematics (STEM) Cadetships and Advanced Apprenticeships**

As part of efforts to support lifelong learning, the Government is offering up to 500 Women in STEM Cadetships and Advanced Apprenticeships. The new program commencing from 2021 will support women who want to upskill in STEM, or build a STEM career, to get job relevant skills to help them to advance in their profession. Employers and universities will collaborate to provide programs combining study and work in STEM fields. This four-year program will support women to gain career experience and earn a salary at the same time as studying towards an industry-relevant, higher education advanced diploma in a STEM field, boosting women's participation in both STEM-related learning and work.

#### **Industry 4.0 Advanced Apprenticeship Pilot**

The Government is funding a \$7.3 million Industry 4.0 Advanced Apprenticeship Pilot to support a qualification in Applied Technologies to be delivered in 2021 and 2022, commencing from semester one in 2021. The pilot will enable participating workers to access a range of qualification types such as associated degrees, diplomas and undergraduate certificates in 2021 and aims to equip graduates with skills that are directly relevant to their current and future work roles in the advanced manufacturing sector.

#### **Department of Education, Skills and Employment-BHP Future of Work Partnership**

The Government is partnering with BHP to create opportunities for up to 1,000 people in regional areas to study a higher education qualification or upgrade their skills to improve their employability. Through the BHP partnership, Australians will become more job-ready by gaining an undergraduate certificate qualification through short courses, or participating in workplace integrated learning through an advanced apprenticeship.

### Skills Reform

Under the Heads of Agreement for Skills Reform, the Commonwealth, states and territories have set out several priorities for system reform, including: adopting a new funding model; developing and funding nationally accredited micro-credentials; providing stronger support for foundation skills; promoting apprenticeships; strengthening VET pathways; enhancing transparency and accountability; and increasing real investment in VET.

Immediate reforms are being progressed to improve quality, including through a review of the current standards for RTOs, building RTO capacity and capability for continuous improvement and developing a VET workforce quality strategy.

# Consultation on potential changes

## Tax policy settings

Expanding access to education and training expense deductions not associated with current employment activities could have broader implications for the tax system given that under current law a tax deduction is generally allowed for, and limited to, expenses incurred in gaining or producing assessable income. Further, broadening deductions in this area could generate calls to extend deductions to other expenditures that are not incurred in gaining or producing assessable income.

### Discussion question

1. Given the significant government funding provided for education and training, is a new tax deduction the most effective mechanism to encourage Australians to retrain and reskill to support their future employment and career?

## Parameters of any new deduction

There are a number of factors that need to be considered to ensure any new deduction is designed to achieve its intended purpose.

There are a wide variety of training courses which range from formal training provided through the tertiary education sector, comprising higher education and VET providers, to informal education provided through seminars, conferences, workshops and other training. Some courses will have a readily identifiable link to an individual's future income earning capacity, while others may not. Some courses may not be related to a vocational or academic outcome, such as 'lifestyle or personal development courses', and are typically undertaken for personal interest reasons and do not typically lead to the individual earning an assessable income.

### What training courses would be eligible for any new expense deduction?

It is important to consider which courses should be considered eligible for any new deduction. Not every course will lead to an individual earning an assessable income. Further, not every course is of a standard where the provider must meet quality requirements. To achieve the policy objective of supporting individuals to invest in their future career, it is important that individuals receive training that will enhance their employment prospects. This is needed to reduce the risk of abuse of any change, for example that unscrupulous providers exploit potential students and deliver poor quality or low value training. One way this could be achieved is to limit the deduction to nationally recognised training and industry training packages delivered by education and training providers registered with TEQSA, ASQA, VRQA and TAC.

Regulatory bodies have an important role in ensuring the quality of education and training available in Australia. With quality education available in Australia, tax concessions provided for training and education should be targeted to those courses which are available in Australia. Any new deduction would not apply to courses that are delivered overseas. Courses provided online only should be provided by an Australian provider to be eligible for any new deduction.

It is important to understand the changing labour market needs, the skills requirements of current and future jobs, the structural shifts that will occur and the skilling and retraining needed to get people to gain and sustain employment. A new deduction could target assistance to areas of current labour demand or forecast job growth.

Any new tax deduction would need to exclude courses where it is not clear they will lead to income earning activities (for example, lifestyle or personal development courses).

The National Skills Commission (NSC) provides trusted and independent intelligence on Australia's future education, skills and jobs.

Analysis on workforce skills needs provided by the NSC on the Labour Market Information Portal <sup>2</sup> provides a platform to identify areas of expected job growth.<sup>3</sup> For VET, the NSC is developing a stronger evidence base of labour market demand for qualifications and skills to inform the allocation of public subsidies. State and territory governments also assess labour market demand in developing training subsidy programs. These analyses could inform targeting of any new education and training expense tax deduction.

However, areas of job growth can be expected to change over time. Targeting deductions in this way would increase the complexity of the system, as courses eligible for deductions could also change over time.

### Discussion questions

2. Should any new deduction be targeted to courses delivered by education and training providers registered with the appropriate regulatory bodies?
3. Should any new deduction be further targeted to study or training that has a vocational outcome, such as VET courses based on industry Training Packages, for example to exclude 'lifestyle and personal development courses'?
4. Should deductions be targeted to courses in areas of expected jobs growth, for example as determined by the NSC?

### What expenses should be deductible?

The tuition fees associated with attending a training course are just one expense that may be incurred in relation to education and training. There are other expenses that may be incurred such as travel costs, books and equipment. There are clear guidelines which set out when a deduction can be claimed in relation to these expenses where the education and training is directly related to an individual's employment. Examples of expenses which are currently deductible include: tuition fees, conference registration fees, textbooks, stationery, depreciation of certain assets (such as laptops) and travel expenses. Similar expenses could be included under any new deduction. That said, as any new deduction is already broadening the circumstances where a deduction is available, it may be appropriate to limit the scope to only tuition fees.

### Discussion question

5. Is there any reason to change the types of expenses that are able to be deducted? For example, should any new deduction be limited to tuition fees?

### Government funded training / education

CSPs are one of the key government funding programs that subsidise a proportion of the cost for a student to attend university. In a CSP, the cost of higher education study is split into two parts:

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<sup>2</sup> <https://lmip.gov.au/>

<sup>3</sup> Note the 2019 employment projections do not take account of any impact caused by the COVID-19 pandemic and are therefore no longer reflective of current labour market conditions. As such, they should be used, and interpreted, with extreme caution.

- the Australian Government pays a share of the costs directly to the higher education provider—this is the subsidy amount.
- the student pays their share of the costs—and this is called the student contribution amount.

Individuals cannot currently claim education and training expense deductions for student contribution amounts towards CSPs. That is, those who receive a Commonwealth subsidy are not eligible to claim tax deductions for the tuition expenses, even if paid upfront and in full, under existing arrangements. Individuals may be able to claim self-education expense deductions for tuition fees incurred when undertaking courses of study that are not subsidised by the Commonwealth (that is, are not CSPs) if the expenses are associated with their current employment.

Where a student is undertaking a full-fee paying course using a Commonwealth student loan (at either a university or vocational education training facility), a deduction is typically available when the course fees are incurred, but not when repayments are made. This is consistent with the principle that expenses are deductible when they are incurred.

For VET, Commonwealth funding contributes to state and territory government subsidies for high priority courses to meet labour market needs. Under current tax arrangements, students participating in these government subsidised VET courses may be eligible to claim a deduction for their education expenses.

### Discussion question

6. How should the tax deduction interact with government funding, subsidies and loans for higher education and VET courses?

## Claiming any new deduction

### **Any new deduction should be claimed at a point which is consistent with the current rules**

Currently, self-education deductions can be claimed in the year in which they are incurred. However, this may not be the same year in which the expense is paid for, such as FEE-HELP debts which are repaid over time. In this case, the tuition fees are deductible when they are incurred, but not at the time repayments are made.

Deductions only benefit individuals who are generally able to meet the upfront costs, are earning an assessable income and have a tax liability against which they can apply the deduction. Low-income earners, including those outside the workforce, with little or no income tax liability would not benefit from a new income tax deduction.

### **Any tax loss arising as a result of any new deduction should be treated consistently with the current rules**

A tax loss occurs when an individual's deductions for an income year exceed the total assessable and net exempt income for the year. For individuals, a tax loss can be carried forward indefinitely however the tax loss must be claimed at the first available opportunity. Carried-forward tax losses are offset first against any net exempt income and then against assessable income. Losses must be claimed in the order in which they were incurred. There are some deductions, such as gifts to deductible gift recipients and deductible superannuation contributions, which are effectively capped in order to ensure that they cannot result in a tax loss and therefore cannot be used to reduce any future assessable income.

### **Eligibility for any new deduction should be consistent with the current rules**

Consistent with the current arrangements, any new deduction would not apply where a third party pays for the education or training on behalf of the individual. For example, a deduction would not be available for parents who pay for the school fees for their child.

Under current arrangements, secondary schooling expenses would not be considered to directly relate to deriving assessable income and would not be deductible to the individual. The same approach would apply to any new deduction.

### First \$250 of self-education expenses is not deductible

As mentioned above, the first \$250 of education expenses is not deductible. While many taxpayers are able to reduce this threshold through non-deductible expenses, this imposes compliance costs on individuals.

This provision results from a number of amendments in the tax legislation. Since 1972, deductions for self-education expenses have been explicitly included in the income tax law. In 1975 the then Government decided to replace the system of concessional deductions with one of concessional rebates. As the concessional rebate was \$250, the legislation provided that deductions for self-education expenses under the general provisions would only be available to taxpayers who spent more than \$250 in a year and then only for the excess of the expenses over \$250. In 1985 the concessional rebate was removed but the no-claim amount was retained. As a result, this threshold no longer achieves its intended purpose.

#### Discussion question

7. Irrespective of any new education deduction, should the \$250 reduction in expenses be removed?

## Safeguarding the tax system

In the past, governments have introduced measures to address integrity concerns with the claiming of deductions. These include disallowing certain rental deduction claims and certain deductions for holding vacant land. The most recent *Individuals not in business income tax gap*<sup>4</sup> (the tax gap) was estimated to be \$8.3 billion in 2017-18, or 5.6 per cent. The tax gap is primarily influenced by incorrectly claimed deductions, with work-related expenses being the main contributor. The tax gap is an estimate of the difference between the amount of tax the Australian Taxation Office (ATO) collects and what the ATO would have collected if every taxpayer was fully compliant with tax law.

Allowing deductions for education and training expenses lacking nexus to current employment activity would need to be accompanied by appropriate guidance to ensure that the expenditure is fully substantiated. This includes keeping detailed records and receipts, such as details of the training provider and course. This ensures the deduction could be effectively administered, protect against revenue loss and help mitigate compliance concerns.

#### Discussion question

8. Are other measures required to minimise opportunities for tax misuse and abuse?

#### Discussion question

9. Are there observations regarding any other tax issues that are raised throughout the paper?

<sup>4</sup> Source: Australian Taxation Office, *Individuals not in business income tax gap*