

Law Council joins with peak professional bodies to oppose tax on learning

The Law Council of Australia has joined with a range of peak professional, educational and industry groups in calling on the Australian Government to abandon the proposed \$2000 cap on tax deductions for self-education expenses.

Law Council of Australia President, Mr Michael Colbran QC, said the proposed cap, scheduled to come into effect on 1 July 2014, will have very significant, adverse consequences for all professionals in Australia, including lawyers, and on the wider community.

"The frightful harvest of this poorly conceived policy will be declining standards in all spheres of professional life, in the quality of medical and scientific research, in the careful exercise of corporate governance responsibilities and in the standard of occupational safety at the shop and factory floor.

"Education is at the forefront of a vibrant, modern and productive Australia and this proposed measure effectively imposes a tax on learning.

"It is imperative the Government reconsiders this remarkably regressive policy and reaffirms its commitment to education through congruous policy initiatives that do not penalise Australians for undertaking continuing professional development (CPD) and training to maintain professional and industry standards," Mr Colbran said.

The Law Council shares the view of many other commentators that Australian's will enjoy greater prosperity by lifting the participation in skills and technology based vocational education.

"Far from encouraging greater participation, the measures proposed in the discussion paper will have a dampening impact which will in turn increase the risk that Australia will fall behind countries that are not so constrained.

"This policy initiative is poorly targeted and almost guaranteed to cost Australians more in the long run than it will raise in short term revenue," Mr Colbran said.

The Law Council is concerned the objective of building a smarter Australia will be compromised through the introduction of the proposed cap.

"An educated workforce should be one of the key objectives of Government.

"Members of professions are able to renew their qualifications each year only after they demonstrate that they have undertaken the necessary continuing professional education to maintain a current knowledge of developments within their discipline.

"The importance to the members of the community of such a requirement may be most obvious in relation to the medical profession, but it applies equally to all professions.

“In some cases attendance at venues out of Australia will be essential in order to share in the knowledge that is developed offshore and to ‘import’ those critical skills to Australia”, Mr Colbran said.

The Law Council is also concerned the proposed reforms will impact on the availability and quality of CPD for lawyers and other professional and industry participants in Australia.

“For lawyers who are unable to access employer-provided education, ensuring the requisite CPD hours are obtained, and at a high standard, may be jeopardised if lawyers are required to seek out lower cost, and perhaps lower quality, alternative CPD providers.

“Using a blunt instrument in the form a cap is not an appropriate method of reducing the types of self-education related expense the Government considers excessive,” Mr Colbran said.

The Law Council stated the policy is also remarkable for its failure to have regard for fundamental matters such as geography and the established business structures of the professions.

“These failures mean that apart from being poorly targeted, the policy will operate in a way that is blatantly discriminatory.”

Mr Colbran said an example of the lack of perception lying behind this flawed policy is the failure to recognise that many professionals are located outside the two largest cities on the eastern seaboard.

"All lawyers are required to undertake mandatory CPD as part of requirements to maintain their practicing certificates.

“For many lawyers, particularly those in rural, regional and remote areas of Australia, the imposition of the proposed cap will limit self-education options and, in many cases, effectively penalise them for trying to improve their professional qualifications,” Mr Colbran said.

The proposed reforms also unreasonably discriminate against common business structures in the legal profession such as sole practitioners, including all barristers, due to the inconsistent treatment between employers who can continue to deduct the full cost of educating their employees and the low cap on the same deduction available to the self-employed and those employees who self-fund their education.

Further, the Discussion Paper indicates that the basic resources of many professionals, the books and periodicals which constitute their tools of trade will no longer qualify as deductible.

“This proposed policy takes no account of the expenses that must be incurred by someone genuinely in business and risks devastating effects on the profitability of small and medium sized businesses and sole traders.

“The Law Council will continue to advocate strongly for the abolition of this ill-conceived and short-sighted measure,” Mr Colbran concluded.

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