



BetterTax Submission  
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Tax White Paper Task Force  
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Australian Childcare Alliance



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South Australia and Northern Territory  
Western Australia  
Queensland



# Australian Childcare Alliance

The Australian Childcare Alliance (ACA) is the national peak body representing members in the early childhood education and care (ECEC) sector, with member offices in Victoria, New South Wales, Queensland, South Australia and Western Australia and representation in Northern Territory and ACT.

ACA advocates on behalf of long day care owners and operators to ensure families have an opportunity to access affordable ECEC throughout Australia. ACA, with its membership, work with all levels of government, regulatory authorities and other stakeholders to ensure that families are supported into the future with a sustainable, affordable and viable sector.

ACA also gathers feedback from member services, as well as the families at these services. Our major parental input occurs via our 'What Parents Want' surveys, giving ACA a unique view into the opinions of families on an ongoing basis.

ACA congratulates the government on initiating the *BetterTax* review and is happy to provide a submission on behalf of our membership. In considering the review ACA has focused our response on the questions contained under the Not-for-Profit chapter being,

- 47. Are the current tax arrangements for the NFP sector appropriate? Why or why not?
- 48. To what extent do the tax arrangements for the NFP sector raise particular concerns about competitive advantage compared to the tax arrangements for for-profit organisations?

These questions highlight very real concerns for our membership and have long been an issue of discussion.

The ECEC sector in Australia is unique (apart from the aged care sector) as privately owned services are operating in a competitive market against not for-profit providers. Privately owned long day care services do not have the benefit of peppercorn rents, gaming and other grants, exemption from FBT, Income Tax and Payroll tax which gives those operating in the not-for-profit status significant economic and competitive advantage.

To highlight the extent of exemptions that are offered to the not for-profit sector please refer to the following table, taken from the Australian Taxation Office website. ACA understands that not all operators will enjoy all the below exemptions, however it is an important example to highlight the disadvantages of private operators providing ECEC.

### Summary of tax concessions and types of non-profit organisations

Tax concessions	Types of non-profit organisations		
	Registered public benevolent institutions and Registered health promotion charities	Registered charities	Other non-profit organisations
Income tax exemption	✓ 1	✓ 1	✓ Certain types only 2
FBT exemption (subject to capping)	✓ 1		✓ Certain types only 3

threshold)			
FBT rebate		✓ 8	✓ Certain types only 4
GST concessions for charities and gift deductible entities	✓ 1	✓ 1	✓ Certain types only 5
GST concessions for non-profit organisations	✓	✓	✓
Deductible gift recipients	✓ 6	✓ Certain types only 6	✓ Certain types only 6
Refunds of franking credits	✓ 7	✓ 7	✓ Certain types only 7

<https://www.ato.gov.au/Non-profit/Getting-started-for-non-profit-organisations/Tax-concessions---an-overview/>

With reference to the above ACA recognises that there are stark inequities between the private versus not-for-profit, or PBI providers operating in the ECEC industry. These differences substantially distort a competitive environment. Importantly, ACA is concerned that it is the families who are disadvantaged as it is the user who ultimately pays the extra costs associated and therefore unfair to those who choose private ECEC services. These will be discussed further.

## Fringe Benefit Tax

Fringe Benefit tax was initially introduced to prevent tax avoidance and when personal taxation rates were much higher. The introduction of FBT exemptions for public benevolent institutions (PBI), or community based ECEC providers in this case, was an offshoot from this decision and it is timely to reconsider the unintended circumstances of this exemption, especially as it unfairly affects the majority of ECEC providers who operate as for-profit businesses.

In Australia approximately 70% of ECEC services are private (for profit) entities that are not able to offer employees the substantial FBT exempt benefits that the community (not-for-profit) operators can access. An additional benefit from this exemption also means that a community (not-for profit) service can afford to offer employees up to 12.5% above award wages, on top of the lucrative before income tax benefits (capped up to \$30,000 annually) such as car leases, personal loans or paying for other household expenses such as childcare fees.

The Australian Childcare Alliance argues that this unfair market advantage creates the following issues



1. **Distorts the labour market for the attraction and retention of employees.** ACA argues that it distorts the principles of a *'level playing field'* within the industry. The market concept of competitive neutrality is void due to the community (not-for-profit) services being able to secure quality staff through utilization of employee benefits allowable only due to their FBT exempt status.
2. **The inherent unfairness regarding ability to offer FBT benefits distorts the perception of 'equal pay for equal work'.** Salary sacrificing under the current system can mean that an equivalently qualified person working in a community ECEC, undertaking the same position as a worker across the road in a for-profit service can be receiving substantially more in actual 'take-home' income. Due to the ability of wage subsidisation the community sector can also offer other workplace benefits especially relating to regulatory requirements, for example being able to offer more staff above required staff ratios.
3. **Distorts the concept of 'free-market choice'.** There are many anecdotal arguments regarding the choices having to be made by potential employees who would like to work in the for-profit system but due to the unfair financial advantage being offered by the not-for-profit sector cannot afford to move to a for-profit employer.
4. **Outside of metropolitan areas (including regional Australia) this unfair community advantage is even more pronounced** where the services are predominately community. In these areas the private sector struggles to compete with not-for-profit services to recruit educators to provide high quality outcomes for children. This also causes additional strain on the services that cannot meet the required 50% qualification staff ratio under the National Quality Framework and can ultimately mean that a for-profit service just isn't sustainable in these areas. Again leading to market distortion.

## Payroll Tax and Land Tax

Employers' pay payroll Tax when their total wages expenditure reaches a certain threshold. The thresholds vary between States and Territories, which is also concerning for some ACA members, especially those who operate across State/Territory borders. However this submission focuses on the economic advantage given to not-for-profit ECEC providers who enjoy this exemption.

Land tax is an annual tax payable by owners of land and administered through state or territory government, everywhere except Northern Territory. Laws are mostly comparable but there are some differences. Another example of the lack of harmonisation of taxation laws that are difficult to manage for our members operating centres across State/Territory borders.

Land tax is determined by the combined unimproved value of taxable property owned by a business, often the case for our members. These two taxes combined add up to substantial differences to overall costs associated with the overall operational costs of providing families a quality education and care service.

Example from South Australia. A privately owned ECEC service in Adelaide, which is 5 km from Adelaide CBD is in direct competition with not-for-profit community centres who do not pay the cited taxes. The per annum figures for this service are as follows

Land tax	\$11,000.00
Payroll tax	\$34,179.00
Total	\$45,179.00
Cost per place per annum (90 places)	\$502.00
Cost per place per week	\$9.65

Another example from Melbourne, Victoria highlights that, by the owner's calculation for a 95 place centre Payroll and Land Tax calculate to \$8 per place per week.

For operators with multiple services and the escalating rate in payroll tax these are calculated on wages paid become increasingly higher.

These examples are indicative across Australia and highlight the real cost of these taxes and the disadvantage for our members operating in a competitive environment.

ACA believe that it is possible for all (private and not-for-profit) ECEC services to operate on a level playing field and that there is significant economic advantages offered to not-for-profit providers. A level playing field will ensure that costs to families will be more equitable. The following table highlights the fee structure of ECECs operating in the City of Sydney. Information has been sourced from <http://www.careforkids.com.au/child-care-centre/sydney-city/regions> and is current as at 1 June 2015.

Service	Daily Fee		
	0-2s	2-3s	3-5s
KU Lance Pre-School and Children's Centre (community based non-profit) Millers Point	\$121.50	\$121.50	\$119.50
KU Phillip Park Children's Centre (community based non-profit) Sydney	\$130.00	\$128.00	\$128.00
KU Ultimo Child Care Centre (community based non-profit) Ultimo	\$108.50	\$106.50	\$104.50
Magic Pudding Child Care Centre (community based non-profit) Ultimo	\$104.00	\$104.00	\$91.00
SDN Pyrmont Children's Education and Care Centre (community based non-profit) Pyrmont	\$123.00	\$115.00	\$113.00
SDN Woolloomooloo Children's Education and Care Centre (community based non-profit) Woolloomooloo	\$128.00	\$123.00	\$118.00
Active Kids at World Tower (private) Sydney	\$150.00	\$140.00	
City West Child Care Centre (private) Pyrmont	\$128.00	\$124.00	\$117.00
Kindy Patch Ultimo (private) Ultimo	\$116.00	\$110.00	\$110.00
World Tower Child Care (private) Sydney	\$150.00	\$140.00	\$140.00
Explore and Develop (private) Breakfast Point	\$125.00	\$115.00	\$110.00

Note: Another substantial difference that must be highlighted is that not-for-profit services do not pay the market value leases/rents that private providers are subject to.

The table shows comparative ECEC operators all providing services in the City of Sydney area. You will notice that the price structures for both private and non-profit services are, mostly, comparable. Further, and in view of the advantages not-for-profit providers enjoy, it is incomprehensible to ACA that the fees charged by the not-for-profit sector to families are similar and in some cases higher than those charged by the private sector. These figures are just an example and ACA knows that this is a common theme throughout Australia.



It is also important to highlight that there is a marked difference evident in many regional areas where only two services operate – one private and one not-for-profit and fees are similar, if not higher in the not-for-profit service. This also increases the difficulty for the private service to recruit educators to the aforementioned staffing benefits.

ACA also points out that a removal of the FBT, Payroll and Land Tax exemptions from the not-for-profit sector should not impact on increased service fees to families by not-for-profit providers. The private sector without the above taxation exemptions is currently competitive with the not-for-profit sector fees.

Importantly the Productivity Commission in its recent report *Childcare and Early Childhood Learning* acknowledged this inequity and called on governments to treat long day care centres from both industry segments (for profit and not-for-profit) equally.

Following is the relevant part of the Productivity Commission's Report.

#### Recommendation 9.1

“In line with the broad level recommendations of the Productivity Commission's 2010 study into the Contribution of the Not for Profit sector, the Australian Government should remove eligibility of not-for-profit childcare providers to Fringe Benefits Tax exemptions and rebates. State and territory governments should remove eligibility of all not-for-profit childcare providers to payroll tax exemptions. If governments choose to retain assistance, eligibility for a payroll tax exemption should be restricted to childcare activities where it can be clearly demonstrated that the activity would otherwise be unviable and the provider has no potential commercial competitors.”

#### **Australian Childcare Alliance Recommendation to Bettertax**

As part of your decision in determining a fair and equal future tax system, and in this case for the ECEC sector, to enact the above recommendation from the Productivity Commission as it relates specifically to FBT, salary sacrificing, Payroll Tax and that Land Tax exemptions are also removed.