ASPIA response to
Re:think Tax Discussion Paper

The Australian Salary Packaging Industry Association (ASPIA) welcomes the opportunity to respond to the *Re:think Tax* Discussion Paper and to have input into the discussion the Government has initiated about the opportunities for reform of the Australian taxation system.

ASPIA was formed in 2007 to provide a forum for discussing the overarching legislative and taxation issues affecting organisations within the growing outsourced salary packaging industry and their corporate and individual employee clients.

Since then the Association has evolved to more broadly represent and promote the industry, particularly engaging with Government and regulators. It also performs an educative role, striving to build an understanding of the industry by publishing information about its impact and economic importance.

Furthermore the Association plays a role in setting and maintaining the standards of the industry, establishing minimum guidelines in relation to service and inter-provider engagement, as well as providing a complaints handling facility for member firms' customers.

ASPIA currently represents more than 30 organisations involved in the salary packaging industry in Australia, and together they employ more than 1,500 people. The Association is run by a small, voluntary Board, who hold senior positions in companies that operate in the industry.

Our members service more than 6,200 organisations, ranging from corporations and government departments, to various Not-For-Profit (NFP) organisations, including Public Benevolent Institutions (PBIs), Health Promotion Charities and Public Hospitals. More than 1.5 million employees are eligible for benefits, with an estimated 50% of eligible employees taking advantage of their entitlement. ASPIA's members administer at least $300 million in benefits each month.

The *Re:think Tax* Discussion Paper sets out to create a better tax system, one that delivers taxes which are lower, simpler and fairer. It needs to encourage higher economic growth and living standards, improve international competitiveness and be responsive to a changing economy and new opportunities.

The comments we provide support those tenets absolutely. We believe that this review is a timely opportunity to address some inequities that exist in the current system, and to make it simpler and more easily administered, at the same time as providing the framework to facilitate the next stage of growth in the Australian economy.

We welcome the opportunity to elaborate on any of our views and should you need further information, please contact Leigh Penberthy, Chairman by emailing leigh.penberthy@aspia.com.au or by calling 1300 766 064.

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Scope of our Submission

The Discussion Paper raised eight questions of particular relevance to our members and to their clients. Our submission focuses on these issues:

1. What should our FBT system look like and why? (Question 7)

2. To what extent does our FBT system strike the right balance between simplicity and fairness? What could be done to improve this? (Question 16)

3. To what extent are the concessions and exemptions in the FBT system appropriate? (Question 17)

4. Are the current tax arrangements for the NFP sector appropriate? Why or why not? (Question 47)

5. 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? (Question 48)

6. What, if any, administrative arrangements could be simplified that would result in similar outcomes, but with reduced compliance costs? (Question 49)

7. What, if any, changes could be made to the current tax arrangements for the NFP sector that would enable the sector to deliver benefits to the Australian community more efficiently or effectively? (Question 50)

8. To what extent are the tax settings [for Luxury Car Tax (LCT)]... appropriate? What changes could be made ... to make a better tax system to deliver taxes that are lower, simpler, and fairer? (Question 54)

In forming our responses to these issues, we have drawn on the direct and anecdotal experiences of our members, as well as research undertaken by PWC, Lateral Economics (2010)[1] and a survey of more than 3,000 NFP employees and 100 NFP employers conducted by System Knowledge Concepts (2012).[2]

The following is a précis of ASPIA's position on each of these key questions. The balance of this submission explores the key issues in more detail and elaborates on the perspective outlined below.

[1] Lateral Economics, *The case for retaining the FBT concession for not for profit Hospitals/Aged Care and Public Benevolent Institutions (Charities)*, a report commissioned by McMillan Shakespeare and submitted to the 'Australia's Future Tax System Review' (the Henry Review), April 2010.
[2] Systems Knowledge Concepts Pty Ltd, *FBT concessions for the NFP Sector*, a survey commissioned by McMillan Shakespeare and submitted to the Not-for-Profit Tax Concession Working Group, December 2012.

What should our Fringe Benefits Tax (FBT) system look like and why? (Question 7)

The current FBT system is working well. It helps NFP organisations attract and retain staff, and gives employers and employees flexibility to structure remuneration packages in a way that reflects what employers can afford to pay, at the same time as prioritising the benefits that are important to employees at their respective stages of life. Furthermore, the FBT system is also well understood and widely accepted. There is a high degree of compliance and it requires a manageable level of administration.

Any proposal involving a shift of FBT liability back to employees and their income tax liability risks causing significant disruption to the wider NFP sector. It would add unnecessary extra layers of complexity and compliance costs at the employer level, and go against the current focus on simplicity and fairness.

To what extent does our FBT system strike the right balance between simplicity and fairness? What could be done to improve this? (Question 16)

For the most part, we believe the system is simple, fair and efficient. An example of that is the flexibility in the choice of model for valuing car fringe benefits. However, ASPIA has identified some areas where reform should be considered, namely remote area housing and childcare facilities. We also have concerns about the proposed level of the cap on meal entertainment and entertainment facility leasing.

Any other changes contemplated must take due consideration of the compliance cost, the impact on business, the effects on employees and the ultimate impact on revenue.

To what extent are the concessions and exemptions in the FBT system appropriate? (Question 17)

The current concessions and exemptions are, for the most part, working well and are appropriate. They help employers attract and retain employees. There are a small number of concessions that should be reformed to ensure they achieve their original aims, and are also able to be applied more fairly and simply, notably in relation to childcare facilities and remote area housing.

Are the current tax arrangements for the NFP sector appropriate? (Question 47)

The current tax arrangements for NFPs enable these organisations to provide the services and facilities that are so integral to the effective functioning of society. They also provide the framework that is fundamental to the key requirement of NFPs to attract and retain staff and efficiently manage their costs.

The alternative proposed by the Not-For-Profit Sector Tax Concessions Working Group (TCWG) would either incur more cost for the government, or reduce the take home pay of employees. Neither scenario is an improvement on the current arrangement, especially when there is no strong reason for dramatic change.

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? (Question 48)

The notion that tax concessions available to NFPs are impeding competitive neutrality in the marketplace is unsubstantiated. In ASPIA's view, NFP operators do not have an unfair competitive advantage in any sphere of operation.

What, if any, administrative arrangements could be simplified that would result in similar outcomes, but with reduced compliance costs? (Question 49)

None. There is evidence that the vast majority of NFP organisations regard the administrative load as fair and reasonable, or even simple and easy. The services provided by the outsourced salary packaging industry also help to make this a simple and efficient system.

What, if any, changes could be made to the current tax arrangements for the NFP sector that would enable the sector to deliver benefits to the Australian community more efficiently or effectively? (Question 50)

None. As noted earlier, the system is operating efficiently and bar one or two particular aspects, it also operates effectively, benefitting and supporting those whom it was designed to assist. The current structure enables NFPs to plan with certainty and provides the support necessary for them to fulfil the important role they play in society.

Any alternative models need to take into account the potential impacts, which could be wide-reaching, affecting service delivery, the government purse, and the stability and structure of the industrial relations environment. We encourage the focus to remain on incremental enhancements to ensure the system becomes ever more efficient, effective and fairer, while remaining simple to administer.

To what extent are the tax settings... [for LCT] ... appropriate? What changes could be made ... to make a better tax system to deliver taxes that are lower, simpler, and fairer? (Question 54)

The thresholds for the Luxury Car Tax (LCT) need to be changed. They are currently neither simple, nor fair. The premise for its introduction when GST was implemented was flawed and it has not had the expected impact on the vehicle manufacturing industry.

The application of different thresholds and constant change has caused significant administration and compliance cost to businesses. They often struggle to keep up with the changes and to implement them through a multitude of different systems and work processes The regulations require businesses that lease luxury vehicles to apply complex depreciation limits and restrictions. These calculations create a significant workload, which requires resources and expertise often beyond what is available in-house.

Accordingly, we believe that the time is right to either abolish the LCT, along with the remaining depreciation and input tax credit limitation in relation to ‘luxury’ vehicles, or at least look to significantly reduce the cost and administrative burden on the industry as a whole.

BACKGROUND AND FURTHER DISCUSSION

1. FBT system – structure; simplicity and fairness;
2. Suitability, efficiency and effectiveness of FBT concessions and exemptions
3. Competitive neutrality
4. Administrative burden
5. Alternative models
6. Luxury Car Tax (LCT) settings

1. Structure of the FBT system

ASPIA believes that the current statutory framework of fringe benefits tax (FBT) concessions for NFPs poses no cause for concern and should remain in place, as currently structured.

The system achieves one of the most important things it set out to address – it helps to attract and retain staff in the NFP sector. The reality is that the NFP sector relies heavily on employees who take up roles that pay less than the equivalent rates found in the For-Profit sector. Without those employees, these important community service providers would struggle to deliver services to the more disadvantaged groups in our society.

The way the FBT system was designed and structured was to help address wage parity issues, as compared to the For-Profit sector. The system gives employees and employers flexibility to structure remuneration packages in a way that reflects what employers can afford to pay, at the same time as prioritising the benefits that are important to employees at particular stages of life.

A survey by SKC[3] found less than 12% of NFP employees would definitely continue working in the sector if the FBT concessions were removed without any compensating changes to their remuneration. This was confirmed by a survey undertaken by Lateral Economics (2010)[4] and a separate survey of more than 3,000 NFP employees and 100 NFP employers conducted by System Knowledge Concepts (2012).

Simply because a system has been in place for a long, stable period doesn't always mean it is right but it is our belief and that of the majority of those in the NFP sector, that the system is well understood and used widely. In fact, it is embedded into many industrial agreements, contracts, policies and other remuneration arrangements. Both employers and employees have made decisions based on these arrangements, and any change would cause severe disruption to the economy, as well as to the broader community services they provide.

Each time there is a review, it causes uncertainty among employers, and employees. In recent years there have been a number of reviews and each one created uncertainty and diverts resources from the important work that NFP organisations undertake.

As we understand, the system also causes little concern to the ATO, with reportedly low levels of audits undertaken in regards to FBT, in comparison to say GST. In our view, this confirms the suitability of the system from a compliance, administrative and integrity perspective. It is an efficient system, and to date we have seen no viable alternative approach - or at the least, none that would not significantly disadvantage employees in this sector or require a significant government investment. We therefore recommend that there is no substantial change to the way the current system operates.

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[3] Systems Knowledge Concepts Pty Ltd, *FBT concessions for the NFP Sector*, a survey commissioned by McMillan Shakespeare and submitted to the Not-for-Profit Tax Concession Working Group, December 2012

[4] Lateral Economics, *The case for retaining the FBT concession for not for profit Hospitals/Aged Care and Public Benevolent Institutions (Charities)*, a report commissioned by McMillan Shakespeare and submitted to the 'Australia's Future Tax System Review' (the Henry Review), April 2010.

Liability for collecting FBT

ASPIA contends that the current structure works well, in terms of where the 'burden' of collection is managed. Any proposal to shift FBT liability onto employees, via PAYG or some other mechanism would be a retrograde step. The decision to introduce the FBT system was, in part, in response to high levels of non-compliance and revenue leakage and we have no reason to believe that it would be any different now if employees were required to self-assess and remit FBT obligations.

The deployment of a self-assessment model potentially risks inconsistency in interpretations of market value. This was one of the things that the introduction of the current FBT system sought to avoid: *"First there were deficiencies in the income tax law itself. A major one was that it called for case by case subjective judgments to be made as to the value of fringe benefits in the hands of individual employees. That kind of requirement is simply incompatible with the efficient assessment and collection of tax on a mass scale and invites disputation."*[5]

If a self-assessment system was not chosen, administration would remain with the employer, in which case, it is simply the FBT system by another name. A hybrid system of taxing employees but making employers manage the administration would not fix the existing administration concerns – in fact, it is likely to exacerbate it.

It would also have two other undesirable effects. **Firstly, it would increase the number of taxpayers in the FBT system, something not favoured by Treasury, and secondly, it would result in an increase in the administrative burden imposed on the ATO**, thanks to the likely increased need for rulings on a case by case basis, as well as more audit activity.

It is important to note that many things that attract fringe benefits tax are not part of an employee's remuneration package, such as entertainment, company-provided fleet vehicles and relocation costs. These are items that are rightly taxed at the employer level, and should remain so. While employees clearly benefit from these items, if they were regarded as part of an employee's salary and taxed via the PAYG system, it would undoubtedly result in a reduction in the employee's cash salary. This would clearly be unfair.

As is it unlikely that all benefits would be taxable at the employee level, there would be further complexity and confusion, and most likely there would be two layers of compliance. This would be inconsistent with the government's aims of simplifying the system, and indeed would contradict the Government's red-tape reduction efforts.

Therefore, ASPIA believes any proposal to transfer FBT liability to employees may create more, rather than less, inefficiency, and more complexity rather than less. Instead, much greater benefit would come from the ATO's efforts in cutting red tape in the administration of the current FBT system, which should have sustainable and beneficial outcomes.

[5] Parliament House, *House of Representatives Hansard*, Second Reading Speech, Fringe Benefits Tax Assessment Bill 1986, 2 May 1986.

2. Suitability, efficiency and effectiveness of FBT concessions and exemptions

ASPIA, together with many other groups that have made submissions to inquiries such as the Productivity Commission review of 2010 and the Henry Review in 2011, believes that the FBT concessions currently available to the NFP sector are appropriate, fair and efficient.

As noted earlier, these concessions play a key part in day to day operation and indeed viability of many NFP organisations, and directly affect their ability to attract staff, which is one of their biggest challenges.[6]

It is estimated that around one third of the eligible charity workforce access the FBT concessions via salary packaging arrangements. The participation rate for public / NFP hospitals and ambulance services is estimated to be circa 52%[7]. In both cases the participation figure is generally greater for larger organisations.

There is widespread agreement that incomes are lower in the NFP sector compared with both government and For-Profit sectors.

Even when FBT exemptions are considered, wages in the community sector are still considerably lower than equivalent positions in the public sector.[8]

There is a perceived value however to the concessions that make the NFP sector attractive to employees and which is so important in being able to maintain the workforce that is needed.

In the SKC survey:

- **More than 95%** of NFP employees consider the FBT concessions to be either **'very important' or 'quite important'** in influencing whether they remain in the sector.[9]
- More than **85%** of NFP employers consider the FBT concessions to be either important or critical for attracting employees.[10]
- Almost **30%** of NFP employers indicated they could lose more than **30%** of their employees if FBT concessions for the sector were materially reduced without offsetting compensation.[11]

We argue that the concessions have two other significant benefits.

Firstly, there is no direct administrative or bureaucratic intervention that creates risk and uncertainty for NFPs, and secondly, the concessions are flexible. This means that employees can choose the benefits that are most appropriate for them and their circumstances. This has the benefit of minimising the cost of the concessions to government while maximising the number of employees that can be attracted to the NFP sector.

[6] Australian Council of Social Service, Analysis of FWA decision on ASU's Equal Remuneration Order application for community sector workers, 1 February 2012.
[7] McMillan Shakespeare submission to the Not-for-Profit Sector Tax Concession Working Group, December 2012
[8] Productivity Commission, *Contribution of the Not-for-Profit Sector*, Research Report, Canberra, January 2010, page 264.
[9] SKC Survey, Employees, Appendix A, Question 13.
[10] SKC Survey, Employers, Appendix A, Question 9.
[11] SKC Survey, Employers, Appendix A, Question 10.

An example of simplicity and fairness: Methodologies for valuing car fringe benefits

An example of where the system is working well in terms of simplicity, cost and fairness is in the statutory formula method (SFM) for valuing car fringe benefits.

It was originally introduced by Hon. Paul Keating in 1986 with the declared purpose of providing employers with a low cost alternative to the complex logbook method or operating cost method (OCM). The SFM concession has since been simplified, as a result of recommendations from the Henry Tax review[12].

OCM involves significant administration, with the need for accurate operating cost collection and logbooks to establish the employee private use percentage. The SFM calculation has been adopted by business because of its simplicity and ease of compliance. This broad level of adoption of SFM supports the fundamental assumptions behind its introduction and reinforces its intent – to avoid unreasonable administration or compliance cost imposts on business.

In terms of fairness, the SFM for valuing car fringe benefits supports the average Australian employee. In 2013 ASPIA conducted a broad survey of its members around those employees who used the SFM with the results as following:

- The average remuneration for employees using the SFM was less than $70,000 per annum.
- The average value of the motor vehicle was close to $35,000.
- The employees utilising this service or product came from Health, Not-for-Profit, Charity, Emergency services and essential services, as well as other industry sectors.
- The adoption of the SFM allowed employees to acquire new or near new vehicles, which contributes to safer vehicles as well as more fuel efficient vehicles on our roads.
- Many industrial or employee awards include the opportunity to package a vehicle as an alternative to higher wages.

Any change to motor vehicle FBT calculation methods must take into consideration the potential burden and cost of compliance along with the resulting reduction in productivity. A change also needs to fully and reasonably assess the revenue impacts, as the result may not deliver the outcomes expected by Treasury.

Managing and collecting motor vehicle FBT under the SFM is simple and easy to administer. However we support the retention of different methodologies, including the OCM, as it enables employers to choose the most appropriate method for calculating motor vehicle FBT.

ASPIA contends therefore that the SFM clearly demonstrates the balance between fairness, equity, integrity and simplicity in terms of the FBT concessions. In addition there are a number of social and economic benefits and other considerations that flow from this policy that cannot be ignored.

12 Henry Review, fn 35, page 47

Cap on meal entertainment and entertainment facility leasing benefits

As we stated in our recent media release[13], we note and support the Government's Federal Budget announcement on 12 May 2015 to place a cap on grossed-up benefits for meal entertainment and entertainment facility leasing. This is something that we have called for in the spirit of ensuring fairness and equity in the system – as an integrity measure. The original intent, as we understand, was for these caps to be reviewed from time to time, in light of salary movements.[14] As far as we are aware, there has not been any such review. As a result, the real value of the original caps have declined.

With reference to the cap proposed by the Treasurer in his Federal Budget 2015, we are concerned about the low value of the proposed meal entertainment and entertainment facility leasing cap and its effect on lower-paid employees who rely heavily on these benefits. It is our belief that at the proposed level, the average person working in Public Health or in a Not-for- Profit or a Charity who is earning the average Australian income of $76,767.60* and packaging these benefits through an ASPIA member will have their annual take home pay effectively reduced by $1,729.83. Based upon this and feedback from the industry we encourage the government to revise the proposed cap.

In addition, the proposed changes would bring an additional compliance burden for the NFP sector and administration providers, increasing the cost of compliance for the sector in ensuring the new legislation is integrated with integrity.

We note also that it is proposed that any entertainment benefits exceeding the new cap are counted towards the existing general cap. Further, all entertainment benefits are proposed to be included as reportable fringe benefits. These measures would affect people working in areas that both the government and opposition agree are so vital to the health and vitality of our economy.

Beyond the proposed cap on meal entertainment and entertainment facility leasing benefits, it is ASPIA's firm view that few changes to the FBT system, as it applies to NFPs, are warranted or necessary.

Two areas that do require attention however are the remote area housing benefit and childcare facilities provided by employers.

Remote Area Housing Benefit

The framework for the concessional FBT treatment of housing benefits provided to employees who work in remote areas are neither simple nor fair, and as a result are in line for reform.

The core remote area housing concessions (ss 58ZC, 59 and 60 of the FBT Act) are intended to help businesses recruit employees into remote areas, and once there, to encourage them to invest locally.

Despite this good intention, the current framework is overly complex and therefore producing unfair and ineffective outcomes.

Currently, the remote area housing concessions divide employee benefits into different types - Exempt, 50% Exempt and 50% Taxable - and each has a different tax outcome for the employer / employee.

[13] http://aspia.com.au/Default.aspx?tabid=219
[14] Peter Costello, Federal Treasurer, *Fringe Benefits Tax: Charities and Non Profit Organisations*, Media Release No.22, Canberra, 13 April 2000.

This becomes even more complex when overlaid with the ATO's interpretation of the law. For example, the ATO has stated that reimbursement of third party housing loan principle repayments is not a reimbursement 'in respect of' employee incurred property purchase costs, and therefore does not qualify for concessional treatment.[15]

In addition, the remote area concessions do not apply at all unless the housing in question is occupied by employees as their 'usual place of residence'. This must be proven on a case by case basis.

This level of complexity results in inconsistent outcomes, depending on employee / employer circumstances, and fails to maximise the benefit to taxpayers or the Australian economy overall. It also does little to achieve the original aims and intent of the exemption / concession. Instead the current framework:

(a) encourages people to rent homes in rural and regional communities instead of buying;
(b) encourages employers to give houses to employees, instead of the employees purchasing homes themselves; and
(c) produces variable salary packaging outcomes for employees in remote areas based on the largely personal decision to rent or borrow and purchase.

ASPIA therefore contends that this is an area that needs to be simplified and streamlined within the FBT Act, with a view to ensuring more consistent outcomes across different employers and / or employees.

Employer-funded childcare facilities

Another area where reform is needed concerns exemptions for employer-owned childcare facilities. While we fully support the longstanding FBT exemption for childcare facilities provided by employers, we believe it is not well targeted. We do not believe, as was suggested in the Discussion Paper, that the primary beneficiaries are those on the top marginal rate.

Most employees benefiting from employer-provided childcare facilities are not on the top rate of tax and actually derive support for their childcare fees from the existing Child Care Rebate and / or Child Care Benefit payment schemes, which are not part of the FBT framework.

Research commissioned by McMillan Shakespeare and provided to the Productivity Commission Inquiry into Childcare[16] found that employers would like to provide childcare benefits and would consider doing so if the FBT exemption provision was reformed.

This mirrors the experience of our members and reinforces that the current provisions make it virtually impossible for all but the largest companies in Australia to provide childcare facilities for their employees to utilise.

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[15] Commissioner of Taxation, *ATO Interpretative Decision ATO ID 2013/158: Fringe benefits tax: remote area housing: reduction of taxable value – residential property and employee's mortgage loan repayments*, Canberra, 28 March 2003.
[16] http://www.pc.gov.au/inquiries/completed/childcare/submissions/initial/submission-counter/sub439-childcare.pdf

ASPIA believes that the FBT exemption can be easily amended to broaden the range of employers who can support employees with young children, therefore ensuring greater participation in the workforce. We recommend that s 47(2) should be reformed to allow:

(a) employers of any size and number to join together to provide childcare facilities for their respective employees;
(b) childcare facilities to be based anywhere convenient to the employer group providing them; and
(c) childcare facilities to be managed and operated by professional third-party ECEC providers.

This would be **more equitable** and allow this provision to achieve its original intent.

3. Competitive neutrality assertions

There have been some suggestions that the current tax concessions available to NFPs may be impeding competitive neutrality in the marketplace. ASPIA believes that if anything, current FBT concessions help to redress inherent competitive bias in favour of For-Profit organisations.

In regards to competitive neutrality, we believe it only becomes a significant issue if non-neutrality can affect the way resources are shared out in a particular market. The definition of a market relies on selling products or services that are regarded as *close substitutes*.

We contend that is not the case. Charities, for example, provide goods and services free of charge (or at low cost) to disadvantaged people who would otherwise not be able to afford these from the For-Profit sector. Thus, the output of charities and For-Profit organisations **are not close substitutes** and therefore the concept of competitive neutrality is not relevant.

In ASPIA's view, NFP operators do not have an unfair competitive advantage in any sphere of operation.

This view is shared by other bodies too. In its 2010 report on the contribution made by the NFP sector, the Productivity Commission considered that non-neutralities are **not a major issue** in most areas in which NFPs operate:

"Most of these NFPs do not compete directly with For-Profit businesses, and for the few that do, they tend to be delivering government services."[17]

While some say that FBT concessions may be creating some form of distortion in the labour market where NFP organisations are competing directly with For-Profit organisations, ASPIA contends that in fact NFPs often attract different parts of the labour force to those operating on a For-Profit basis, and hence there is no direct competition for human resources. We also suggest that there are characteristics of NFP employees and NFP workplaces that suggest competitive neutrality may be less relevant than previously asserted by some stakeholders.

Further, there is evidence that employees perceive the value of the FBT concessions they receive as being greater than they really are. This was highlighted most recently by the SKC Survey[18] where employees were asked to put a value on the remuneration increase they would seek as compensation if FBT concessions were discontinued.

The average value suggested by employees working in the public / NFP health sector was $8,041 per year. PwC calculated the average concession benefit value as being $4,421. This highlights a significant different between the actual and perceived value of the FBT concession.[19]

When assessing competitive neutrality in the market place, it is worth highlighting the competitive disadvantage of NFPs in accessing funding to enable further investment or expansion. It is a simple market fact that all but the largest NFP organisations have difficulty in accessing external funding. NFP hospitals also typically face significantly inferior terms in dealing with health insurance providers.

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[17] Productivity Commission, fn 10, page xxxi.

[18] Systems Knowledge Concepts Pty Ltd, *FBT concessions for the NFP Sector*, a survey commissioned by McMillan Shakespeare and submitted to the Not-for-Profit Tax Concession Working Group, December 2012.

[19] PwC, fn 9. The figure of $1.06 billion stems from 294,045 hospital employees with reportable fringe benefits, and compares with $907 million in respect of 237,204 employees per PwC's original 2012 report.

The NFP and broader health care and aged care sectors benefit from a number of other government initiatives and programs, which are not provided to For-Profit operators, and hence may have some distorting effect on the marketplace.

We therefore contend that there are many factors affecting competitive neutrality and FBT concessions are a relatively minor contributor, if at all.

4. Assertions of administrative burden on the NFP sector

We believe that there is no justifiable evidence that the FBT concessions available to the NFP sector have associated high compliance costs. In contrast, as stated previously, the system is well understood and efficient to administer.

While an advanced salary packaging industry exists, many employers are confident enough to continue to manage their employees' salary packaging arrangement in-house, which supports our previous point.

In a recent SKC[20] survey of NFP organisations, there was clear evidence that they do not view the cost of compliance or degree of administrative effort as excessive. In fact, only 8.2% of NFP respondents found it either 'complicated and time consuming' or 'quite burdensome'. The majority found it 'routine and simple' (43.9%) or 'almost entirely automated with very little effort required' (16.3%).

Where administration of FBT concessions is outsourced, the costs are met by the employee, not the employer, and it therefore has no financial impact. Where it is outsourced, the processing and administration systems used by ASPIA's members are increasingly efficient and modern and deliver economies of scale. As a result, outsourcing costs have fallen by around 50% over the last eight years[21].

We highlight that this is in contrast to what was reported in the Not-For-Profit Sector Tax Concessions Working Group (TCWG), which incorrectly claimed that salary packaging services were imposing a cost of $120 million on the NFP sector.

[20] Systems Knowledge Concepts Pty Ltd, *FBT concessions for the NFP Sector*, a survey commissioned by McMillan Shakespeare and submitted to the Not-for-Profit Tax Concession Working Group, December 2012.
[21] Systems Knowledge Concepts Pty Ltd, *FBT concessions for the NFP Sector*, a survey commissioned by McMillan Shakespeare and submitted to the Not-for-Profit Tax Concession Working Group, December 2012.

5. Alternate methods of funding

The Not-For-Profit Sector Tax Concession Working Group (TCWG) has considered whether there are better ways of delivering the current level of support to NFPs since 2012.

One of their recommendations was to replace the current FBT concessions with an alternate support payment mechanism involving periodic bulk payments to eligible NFPs.

A PwC study[22] found the impact of the proposed model on government revenue would be substantial. They estimated it could increase the combined annual funding costs by $2 billion per annum - from **$2.57 billion to $4.73 billion**.

PwC also explored what would happen if the government could not meet that increase in funding, and instead costs were to be borne by employees. The modelling explored the required reduction in the amount of the FBT concession per NFP employee, based on the current capped FBT concessions to fund the estimated gap.

For employees in the PBI sector earning between $30,000 and $60,000 (the group that has the majority of reportable fringe benefits), PwC estimated that their annual take home pay would reduce by $3,768.

For those in the public / NFP hospital sector earning between $40,000 and $80,000, their annual take home earnings would reduce by $2,062.

The TCWG proposal was not supported by the sector. In fact, an SKC[23] survey found that 90% of respondents disagreed with a grant-based funding model. Only 8.2% felt it would be ‘generally positive with some drawbacks’ and 2.1% believed it would be a ‘very positive change’.

Based upon this evidence, ASPIA suggests that there is no acceptable alternative funding model, especially when the existing system is efficient.

[22] ‘Impact Assessment of changes to RBT concessions – Technical Report by PwC in McMillan Shakespeare submission to the Not-for-Profit Sector Tax Concession Working Group, December 2012

[23] Systems Knowledge Concepts Pty Ltd, *FBT concessions for the NFP Sector*, a survey commissioned by McMillan Shakespeare and submitted to the Not-for-Profit Tax Concession Working Group, December 2012.

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6. Luxury Car Tax settings

The Discussion Paper highlights that the Luxury Car Tax (LCT) has a narrow base, is complex and is Australia's only luxury tax on a specific good or service. This complexity is easily demonstrated by the table below which details the different LCT thresholds, indexation indices, and outcomes for input tax credit (ITC) claims and depreciation.

Threshold	Current	Tax Rate
1. Luxury Car Tax (LCT) non fuel-efficient vehicle	$61,884 (increasing to $63, 184, effective 1 July 2015)	33% above GST inclusive price
2. LCT fuel-efficient vehicles (fuel consumption of 7.0 L per 100 km or less)	$75,375	33% above GST inclusive price
3. Luxury Car threshold for tax depreciation - includes fuel-efficient and non fuel-efficient vehicles	$57,466	Tax Depreciation rate 25%
4. Maximum GST Input Tax Credit (including fuel efficient and non fuel-efficient vehicles).	$5,224.18 (i.e. 1/11th of Luxury Car threshold. It was linked to LCT in 1 above but is now a separate threshold.)	

In effect there are three imposts applied to vehicles that exceed the LCT limits / thresholds:

1. The imposition of 33% LCT of amount exceeding the threshold.
2. The limit of the maximum GST ITC that is claimed at $5,224.18.
3. Where the vehicle is leased, the limit applied for tax depreciation is $57,466.

When GST was introduced in 2000, the imposition of LCT was designed to reinforce the previous ineffective and inefficient sales tax regime, which had aims of protecting the local vehicle manufacturing industry.

Caution should be applied with the removal of LCT, or in fact any material changes to its application, as a significant reduction in the market value of high-end vehicles will immediately occur. A phased reduction over a number of years or advanced warning of the LCT removal will reduce the impact felt by those who have acquired a luxury vehicle in recent years. Further consultation with the broader industry is welcomed and recommended.