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Ms Ruth Geary
Australian Taxation Office

By email: PAGIND&SMB@ato.gov.au

Dear Ms Geary,

Thank you for the opportunity to provide feedback on the *Review of ATO advice on Scholarships* discussion paper, released 1 February 2017.

The University of Sydney understands that the ATO is seeking to clarify taxation exemption arrangements for scholarships and avoid the need for class rulings over small groups of scholarships. However, we have some serious concerns about the specifics of the clarifications as laid out in the discussion paper. Our comments are intended to complement the more detailed submissions of Universities Australia and the Group of Eight, to which we have contributed.

The University of Sydney's main concerns about the ATO's proposed clarifications relate to their potential impact on our scholarship-holders and on our relationships with external funders of our scholarships. Our assessment is that if rigidly applied, the changes the ATO is contemplating would affect our students negatively, and be inconsistent with other government priorities and programs that seek to promote university/industry engagement and university access to philanthropy.

The wording of some of the proposed clarifications needs to more precisely exclude the sorts of cases that the ATO wants to target (where scholarships are given as a form of quasi-employment arrangement) while incentivising the kinds of industry-university connections, philanthropy and student educational support that the federal government is otherwise seeking to encourage.

The suggestion in the paper that various categories of scholarships are not provided primarily for educational purposes is a central concern. The 'principal' benefit of the scholarships we offer is the education of the student¹. We believe that the cause of the confusion here is that many scholarships are implicitly or explicitly allocated with the view to achieving some additional benefit as well as the education of the student. Examples include:

- scholarships intended to increase minority participation generally or in certain fields of workforce/skills priority to government or industry;
- scholarships intended to develop a certain body of knowledge;
- scholarships intended to increase community awareness of an issue;
- scholarships intended to develop a future workforce in areas of identified need;
- scholarships intended to increase collaboration between educational providers, business and industry.

¹ The [ACOLA Report on the Review of Australia's Research Training System \(2016\)](#) summarises the benefits to the student, benefit to knowledge and benefit to the nation..

While none of these additional benefits are the *primary* purpose of the scholarships, they do provide incentives for the industry or other funding body to engage with universities in the primary goal of the education of students.

Importantly, each of these additional purposes is currently a policy priority of one or more federal government agencies, making it incongruous for the ATO to be proposing changes to its interpretation of the law that could only serve to reduce the availability of scholarships to support these objectives.

Work Integrated Learning Placement Scholarships

The possible negative impact of the ATO's clarification proposals on our current and future students on placement scholarships is of particular concern to the University. From the student's point of view, Work Integrated Learning (WIL) placements are usually full-time and a compulsory course requirement. The placements are often undertaken at the expense of any usual part-time work, which provides income while they study. Scholarships therefore provide valuable income support while students pursue their courses of education, including while on placements. Any scholarship income students receive above \$7,826 per annum affects their eligibility for income support through the Department of Human Services. Funders will be less likely to offer, and students less likely to be able to live on, scholarships that are reduced in value because they are not treated as tax exempt.

If the ATO implements its proposals, funders will need to increase the value of the scholarships to ensure students are no worse off. Increasing the value of scholarships will further reduce some students' eligibility for income support payments. The combined result is likely to be less scholarship opportunities for students, reduced income support for students to meet basic living costs, and reduced access to certain programs of study for the students who are most in need of funding support while unable to work in other jobs.

From a technical point of view, it is not appropriate to treat the industry funder as the provider of this kind of scholarship because the university has the contractual relationship with the student and is the provider of the course of study to which the scholarship relates. We will be obliged to pay the scholarship amount to the student regardless of continuation of funding from the funder.

Even if the third party funder could legitimately be considered the provider, the overarching purpose of the placement arrangement and supporting scholarships, is to provide educational benefit to the student, thereby enhancing future employability and learning. The structured programs that characterise placements for our students are not designed to produce work outputs of benefit to the placement host - though these may sometimes be an incidental benefit of the collaboration. The arrangements are not comparable to commercial contracts organisations may have with employees or contractors, as the students are not qualified in their profession. Without the scholarship and the structured placement opportunity connected to it (including appropriate facilitation/supervision by a university academic staff member or affiliate title holder) the student would not have the opportunity to undertake the WIL experience.

The placements enable our students to develop skills relevant to professional practice, which cannot be readily developed in a classroom environment. Industry partners, government agencies, community organisations and philanthropic groups are motivated to support placement scholarships because they recognise the benefit of graduates who have workplace learning experience. Thus, as we argued more generally above, the purpose of the funder is principally educational.

Research Higher Degree Scholarships and Bonded Scholarships

We have similar concerns, alongside our colleagues in UA and the Go8, with the possible clarifications that may result in loss of tax exemption for medical rural bonded scholarships, and for industry-funded higher degree by research scholarships.

In relation to bonded scholarships, their principal purpose is to provide an educational opportunity to a student, but the government seeks to attain other side benefits for the community through the requirement for the student to work in a certain area on graduation. This is demonstrated by the fact that the student could not have been hired to perform the duties defined as a 'benefit' without completing the education supported by the scholarship.

Similarly, a student's PhD thesis may contribute to the body of knowledge in an industry, even though the scholarship was given so that the student could have access to an educational opportunity that might otherwise not have been available. However, any exclusive benefits that may flow to the industry funder are incidental to the fundamental educational purpose, and short-term. Like most Australian universities, under the terms of our research and funding agreements with industry partners, we insist that our research students must have the right to publish their findings in a timely manner.

Not only this, but at the University of Sydney as with other Go8 institutions, the student has the right to change the direction of the research endeavour in keeping with their research interests and progress. So, funding a student has no guarantee that a predicted set of results would arise. What is assured is that the nation will get a better educated student.

The value of most research scholarships offered in Australia is typically higher than the tax-free threshold of \$18,200 per annum. Removing the tax-exempt status of research scholarships will require funders to increase the value of the scholarships so that the recipients are no worse off. In the absence of additional funding this can only result in a reduction in the overall number of scholarships available.

The ATO's clarification proposals would also serve to reduce levels of interest in research degrees in many disciplines where the disparity between the value of research scholarships and entry-level professional salaries is already high. Disciplines where this is likely to occur include architecture, building, engineering, many health fields, law, information technology, management and accounting.

The Australian government is concerned about the length of time it takes some research students to complete their studies. The government has various policies in place designed to maximise completion rates and minimise completion times. If the ATO's proposed changes to the tax treatment of certain research scholarships are adopted, affected students would face even more pressure to earn income from other sources to meet their basic living costs. Our experience is that the more this occurs the less likely it is for research students to complete their studies, and to do so within a reasonable timeframe. Again, the ATO's proposed clarifications appear to be at odds with other policy objectives of the Australian government.

Finally, with Universities Australia, we seek confirmation that scholarships provided through the Research Training Program (RTP) (introduced in 2017 in place of the APA program) will continue to be tax exempt. Any other arrangement, we believe, would not only create conflicts with government policy as detailed above, but would create a serious 'brain drain' from research-track careers towards more lucrative options for talented graduating students.

As demonstration, compare three first class female Honours graduates. Graduate 1 (G1) leaves University and gains full time employment at the average graduate annual salary for females of

\$53,000². According to the ATO's simple tax calculator (2015-2016), G1 will receive \$44,228 annually after tax, or \$1701 per fortnight. G1's income is likely to increase over the following three years as she proves herself to her employer and finds opportunities for promotion or has the flexibility to seek higher paying jobs. Graduate 2 (G2) wants to be a researcher and accepts a tax-exempt RTP scholarship for \$25,000 per annum. She also gains \$20,000 per annum in paid tutoring work at the University (a reasonable load of 3 tutorials per week). G2 will receive a total annual income of \$44,658 or \$1718 per fortnight, comparable to employed G1, while completing her full time studies and working towards a research career. Note also that G2's income is likely to remain static for at least three years (the minimum duration for completion of a PhD). Graduate 3 (G3) also goes on to a PhD, gains the same amount of tutoring work, but under an arrangement where her scholarship is considered taxable income. According to the tax calculator, Graduate 3 receives a total annual income of \$38,828 – nearly \$6,000 less than her counterparts. Her fortnightly income is \$1493.

An outcome such as demonstrated by Graduate 3 would put additional pressure on the system of scholarships, with consequences including less likelihood of the most talented students taking a research-track career, and those students who accept scholarships needing to take on additional paid work with corresponding loss of focus on their full time studies. In the case of government-funded RTP scholarships, to avoid either of these outcomes and create better parity between the top research-track PhD students and their employed graduate peers, a perverse arrangement would have to be made whereby with the one hand the government pays a higher rate of scholarship, while with the other hand the ATO takes it away. We fear, however, that even this undesirable arrangement would not come to pass, and that our students would simply be worse off than they are currently.

The University of Sydney is very keen to continue to work with the ATO to support the agency's aims in clarifying scholarship arrangements. We urge the ATO to ensure that clarity is not achieved at the expense of students, who rely heavily on scholarship income while they pursue their education, or the policy directions of the government at large. Thank you again for the opportunity to make this submission.

Yours sincerely,

Signature removed

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Deputy Vice-Chancellor Education

² Source: [Graduate Careers Graduate Salary Report 2015](#)