

REGULATION IMPACT STATEMENT

WORKING HOLIDAY MAKERS

BACKGROUND

The Working Holiday Maker (WHM) program

The Working Holiday Maker (WHM) program comprises the Working Holiday (subclass 417) and the Work and Holiday (subclass 462) visas, which are issued by the Department of Immigration and Border Protection. The visas allow young adults aged 18 to 30 from eligible partner countries to work in Australia while having an extended holiday. Work in Australia must not be the main purpose of the visa holder's visit.

WHMs on 417 and 462 visas can stay and work in Australia for up to 12 months on their first visa. WHMs on 417 visas can apply for a second year visa. To be eligible for a second year visa, participants must work for three months in specified industries in regional Australia. Pending the necessary legislation coming into effect, holders of 462 visas who undertake three months work in either the agriculture or hospitality industries in northern Australia will also be eligible to apply for a second year visa.

Tax treatment of WHMs

Australia imposes different rates of income tax for individuals who are residents and non-residents for tax purposes. This has been a long-standing feature of the tax system; the tax-free threshold was removed for non-residents in 1982. Tables 1 and 2 below demonstrate the difference in tax rates for residents and non-residents for tax purposes.

Table 1: Resident tax rates for 2016-17

Taxable income	Tax on this income
\$0 - \$18,200	Nil
\$18,201 – \$37,000	19c for each \$1 over \$18,200
\$37,001 – \$80,000 (\$87,000)	\$3,572 plus 32.5c for each \$1 over \$37,000
\$80,001 (\$87,001) – \$180,000	\$17,547 plus 37c for each \$1 over \$80,000 (\$87,000)
\$180,001 and over	\$54,547 plus 45c for each \$1 over \$180,000

Table 2: Non-resident tax rates for 2016-17

Taxable income	Tax on this income
\$0- \$80,000 (\$87,000)	32.5c for each \$1
\$80,001 (\$87,001) - \$180,000	\$26,000 plus 37c for each \$1 over \$80,000 (\$87,000)
\$180,001 and over	\$63,000 plus 45c for each \$1 over \$180,000

Tables 1 and 2 do not include the Medicare levy of two per cent (non-residents are not required to pay the Medicare levy), or the Temporary Budget Repair Levy – this levy is payable at a rate of two

per cent for taxable incomes over \$180,000. The \$80,000 threshold is increasing to \$87,000 for the 2016-17 financial year; the tax paid calculation is based on the \$80,000 threshold.

At present, WHMs self-assess their residency status for tax purposes (which may differ from residency status under immigration law). WHMs who satisfy the tax residency criteria receive the benefit of the tax free threshold and the Low Income Tax Offset, meaning they do not pay any tax until their income exceeds \$20,542. In contrast, WHMs who are non-residents for tax purposes are taxed at 32.5 per cent from their first dollar of income.

Tax residency law is not straight-forward, and Australian Tax Office (ATO) compliance activity has identified that many WHMs are currently incorrectly assessing themselves as residents for tax purposes. In particular, many WHMs have been relying on their presence in Australia for six months as sufficient to be an Australian tax resident. Administrative Appeals Tribunal (AAT) decisions that were handed down in 2015 clarified the law. The AAT cases confirmed that applying the '183 day' test alone was not sufficient, and that an assessment of the full facts and circumstances must be applied to ascertain residency status.

The AAT decisions mean that most transient WHMs do not satisfy the tax residency tests and should be taxed as non-residents. However, WHMs that stay in one place and establish ties with their local community may be considered tax residents under the existing law, notwithstanding the fact that holidaying is the primary purpose for their visit.

The ATO's compliance activities are hindered by a lack of an employer registration process for WHMs, the short term nature of many WHM jobs and data limitations.

Australia's non-resident tax rate of 32.5 per cent from the first dollar of income is much higher than comparable destination countries for WHMs (Table 3).

Table 3: International comparison of WHM tax rates

Tax rates for WHMs – international comparisons					
	Australian resident	Australia (non-resident WHM)	Canada	New Zealand	United Kingdom
Tax-free threshold	\$18 200 (\$20 542 with Low Income Tax Offset)	No	CA\$11 327 ^a	No	GB£4 921
First marginal tax rate (%)	19	32.5	20.05 ^b	10.5	20

^a A non-resident may claim the 'basic personal amount' if all or substantially all (that is, 90%) of their income for the year is included in their taxable income in Canada.

^b Canada levies Federal and Provincial income taxes. The rate above combines the first tax rate at the Federal level (15 per cent) and for Ontario (5.05 per cent).

However, while Australia's headline tax rate for non-residents is higher than comparable WHM destination countries, our minimum wage is internationally competitive – higher than New Zealand, Canada and the United Kingdom (see Section 4).

The 2015-16 Budget announcement

The Australian Government announced in the 2015-16 Budget that from 1 July 2016, all WHMs would be treated as non-residents for tax purposes, and taxed on the same basis as non-residents at 32.5 per cent from their first dollar of income up to \$80,000 (\$87,000 after the threshold change was

announced in the 2016-17 Budget). The change was designed to ensure greater compliance with the tax laws and align WHMs with other individuals treated as non-residents for tax purposes. The measure was estimated to raise \$540 million over the then forward estimates (2015-16 to 2018-19). During the 2016 election campaign, the Government deferred the commencement of the 2015-16 Budget measure to 1 January 2017.

WHMs as a source of labour

While not the original intention, the WHM program has been acknowledged as being a strong contributor of supplementary labour, particularly to the tourism and agriculture industries which are heavily reliant on seasonal labour.

Table 4: Visa numbers granted

	WHM 417 visa	WHM 462 visa
2005-06	114,693	751
2006-07	134,993	1,812
2007-08	154,342	3,488
2008-09	187,907	6,409
2009-10	175,746	7,422
2010-11	185,480	7,442
2011-12	214,644	8,348
2012-13	249,231	9,017
2013-14	229,378	10,214
2014-15	214,830	11,982
2015-16	195,673	18,910

Over the past four years, the WHM program has contracted by about 45,000 – a decline of 17 per cent. WHM numbers peaked in 2012-13 and have come back to 195,000 in 2015-16.

Table 5: WHM visa application charges

2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
\$195	\$230	\$235	\$270	\$280	\$365	\$420	\$440	\$440

Another factor that may influence visa numbers is age restrictions. As noted earlier, WHMs coming to Australia must be aged between 18 and 30 years old whereas in New Zealand, for select countries, the age limit is 35.

The tourism and agriculture sectors face difficulties in recruiting local labour for available job openings, with many stakeholders noting the labour shortages that currently exist across both sectors. Recruitment difficulties are seen to be exacerbated by the seasonal and short-term nature of many job opportunities, the fact that they are often located in remote areas, and that the jobs can be for unskilled labour in tough conditions.¹ Employers also face high fixed costs (e.g. in engaging and training new staff) given that current visa conditions generally limit WHMs to a maximum period of six months' work with any one employer.

¹ Deloitte 2016, *Independent stakeholder engagement on the Working Holiday Maker Visa review*, Report for the Department of Agriculture and Water Resources, Deloitte Touche Tohmatsu, September 2016.

1. WHAT IS THE POLICY PROBLEM YOU ARE TRYING TO SOLVE?

Recent AAT decisions have established that, under the existing law, most WHMs are non-residents for tax purposes and therefore required to pay 32.5 per cent tax from the first dollar of income. However, not all WHMs are classified as non-residents for tax purposes. Those who stay in the one place and establish ties to the community may be classified as residents. This disadvantages WHMs that are transient compared to WHMs that stay in one place. In addition, WHMs tend to incorrectly self-assess as residents.

Taxing WHMs at the 32.5 per cent tax rate has led to concerns, particularly in the agriculture and tourism industries, for which WHMs are a vital source of labour, that WHMs will choose to visit other countries over Australia.

Australia seeks to remain an attractive destination for WHMs, but the current tax treatment of WHMs threatens this goal.

Further to the tax issues identified above, there are concerns about the exploitation of WHMs, including through illegal labour hire practices and non-compliance with laws and regulations. It is viewed that that WHMs are susceptible to exploitation by unscrupulous operators. Such operators include growers, labour hire companies and accommodation providers such as backpacker hostels. Although these are seen as being the exception, there is wide recognition that such operators exist. Some unscrupulous operators have been reported as only paying part of a salary to their workers, or paying no superannuation or taxes. If a worker complained or did not cooperate with them, they would not get work or would be sacked without notice.²

Concerns have also been raised that a visa condition, which generally requires WHMs to change employer after six months, is not internationally competitive with comparable destinations such as Canada, New Zealand and the United Kingdom. The policy rationale behind this condition was that WHMs should holiday in, and travel around, Australia rather than undertake long term employment.

2. WHY IS GOVERNMENT ACTION NEEDED?

Without legislative change, the AAT decisions, which imply that the majority of WHMs would be treated as non-residents for tax purposes and required to pay 32.5 per cent tax from the first dollar of income, will apply as the default position for administering the current tax law.

Legislation is required to ensure that all WHMs are taxed on a consistent basis, at a rate that ensures that Australia is an attractive destination for WHMs, given their role in providing seasonal labour.

² Deloitte 2016, *Independent stakeholder engagement on the Working Holiday Maker Visa review*, Report for the Department of Agriculture and Water Resources, Deloitte Touche Tohmatsu, September 2016.

3. WHAT POLICY OPTIONS ARE YOU CONSIDERING?

The following policy options have been considered:

Option 1

Retain the current law as clarified by the AAT decisions. Transient WHMs would be considered non-residents for tax purposes and therefore taxed at 32.5 per cent from their first dollar of income, however, WHMs who stay in the one place and establish ties to the community, would be classified as residents.

Option 2

All WHMs would be treated as non-residents for tax purposes, and taxed at 32.5 per cent from their first dollar of income up to \$87,000 (implementation of the 2015-16 Budget measure).

Option 3

From 1 January 2017, the income tax rate for all WHMs would be 19 per cent from the first dollar earned up to \$37,000 (ordinary marginal rates to be applied from \$37,001 onwards).

Table 6: WHM tax rates from 1 January 2017

Taxable income	Tax on this income
\$0 - \$37,000	19c for each dollar over \$0
\$37,001 - \$80,000 (\$87,000)	\$7,030 plus 32.5c for each \$1 over \$37,000
\$80,001 (\$87,001) - \$180,000	\$21,005 plus 37c for each \$1 over \$80,000 (\$87,000)
\$180,001 and over	\$58,005 plus 45c for each \$1 over \$180,000

The \$80,000 threshold is increasing to \$87,000 for the 2016-17 financial year; the tax paid calculation is based on the \$80,000 threshold.

In order to implement option 3, employers of WHMs would need to register with the ATO to be entitled to withhold at the 19 per cent tax rate.

- Employers of WHMs who do not register with the ATO would be required to withhold at the 32.5 per cent rate from the first dollar of income and may be subject to ATO penalties.
- If an employer withholds at the 32.5 per cent rate, WHMs would have access to the 19 per cent rate on lodgement of their tax return.
- \$10 million in additional funding would be provided to the ATO and the Fair Work Ombudsman (FWO) to establish the employer register, assist with ongoing compliance initiatives and address workplace exploitation of WHMs.

Option 4

Reduce Australia's WHM (417 and 462) visa application charge by \$50 to \$390 from 1 July 2017.

Option 5

Allow WHMs to stay with one employer for up to 12 months, as long as the second six months is worked in a different region.

Option 6

Provide funding of \$10 million to Tourism Australia to support a global youth-targeted advertising campaign.

A further option considered was increasing the age limit for WHM (417 and 462) visas from 30 to 35 years. However, a final decision for this option is yet to be made and as such, this RIS does not include any impact analysis of this option.

Revenue raising measures

In order to make it broadly budget neutral the following revenue raising options were considered:

- From 1 July 2017, increase the Passenger Movement Charge (PMC) by a one-off amount of \$5, from \$55.
- Increase the rate of tax on the Departing Australia Superannuation Payment (DASP) for WHMs to 95 per cent, also effective 1 July 2017. It is currently 38 per cent for the taxed elements and 47 per cent for untaxed elements (including the Temporary Budget Repair Levy).

As these options are for revenue raising purposes, impact analysis is not required in this RIS.

4. WHAT IS THE LIKELY NET BENEFIT OF EACH OPTION?

Option 1: Current law (as clarified by AAT decisions)

This option would not involve legislative change.

The current legislation requires consideration of a variety of factors when determining an individual's residency status; this uncertainty creates compliance costs for individuals attempting to determine their status. WHMs that move around are likely to be non-residents for tax purposes and face a 32.5 per cent marginal tax rate from the first dollar earned. Stakeholders have suggested this may make Australia an unattractive destination for potential WHMs. As a consequence, it may be more difficult for the tourism and agriculture sectors to find sufficient labour for their seasonal work. In addition, there would be a differential tax treatment between WHMs who move around and those who stay in one place.

There would also remain a significant risk of non-compliance, from WHMs incorrectly self-assessing themselves as tax residents.

Option 2: 32.5 per cent tax rate applied to all WHMs up to \$87,000 (ordinary marginal rates to be applied from \$87,001 onwards)

Benefits

This proposal would remove the current uncertainty around the tax treatment of WHMs. It would also remove the differential tax treatment between WHMs who move around and those who stay in one place.

At the time of the 2015-16 Budget it was estimated that this proposal would increase revenue by \$540 million over the then forward estimates.

Costs

Taxing all WHMs as non-residents may decrease Australia's attractiveness as destination for potential WHMs.

WHMs are a vital source of labour to Australia, particular to the tourism and agriculture industries which make important contributions to the Australian economy and are expected to be drivers of future economic growth.³ Therefore this proposal could limit the seasonal labour supply that these industries depend on.

The estimated additional one-off compliance cost for an existing employee affected by the proposal is around \$44. The one-off compliance cost includes the costs of time taken to learn about the change, evaluate how it will affect them and fill out a new withholding declaration form to submit to all their current employers. Many WHM visa holders seek and find employment through employment agencies that often assist individuals in meeting their compliance obligations. New WHMs, who are affected by the proposal will have to interact with the income tax system in a manner similar to current arrangements and will therefore face no additional compliance costs. The estimated overall increase in compliance costs for all WHMs is around \$3.8 million, which only includes initial non-ongoing implementation compliance costs (as there are no ongoing compliance costs).

The estimated increase in compliance costs for all affected employers as a result of the proposal is around \$1.1 million in initial non-ongoing implementation compliance costs and around \$1.6 million in ongoing compliance costs a year. The one-off compliance cost includes the costs of time taken to learn about the change, evaluate how it will affect them, and process withholding declarations from affected employees (initially there may be many WHMs providing new withholding declarations to their employers). They will need to explain the change to affected employees. On an ongoing basis the main compliance costs relate to record keeping.

³ Deloitte 2016, *Independent stakeholder engagement on the Working Holiday Maker Visa review*, Report for the Department of Agriculture and Water Resources, Deloitte Touche Tohmatsu, September 2016.

Net Benefits

Although this proposal would clarify the tax treatment of WHMs and remove the inconsistent treatment, it is expected that these benefits do not outweigh the cost of Australia potentially losing its attractiveness as a destination for potential WHMs.

Regulatory Burden Table

Table 7: Regulatory Burden Estimate Table

Average annual regulatory costs (from business as usual)				
Change in costs (\$ million)	Business	Community organisations	Individuals	Total change in costs
Total, by sector	\$1.7	n/a	\$0.4	\$2.1

The above table averages the implementation costs over a ten year period, as assessed at the time of the 2015-16 Budget decision. The annual figure of \$1.7 million for business is calculated by adding the annual ongoing cost of \$1.6 million to one tenth of the implementation cost of \$1.1 million. The annual figure of \$0.4 million for individuals is calculated by taking one tenth of the implementation cost of \$3.8 million.

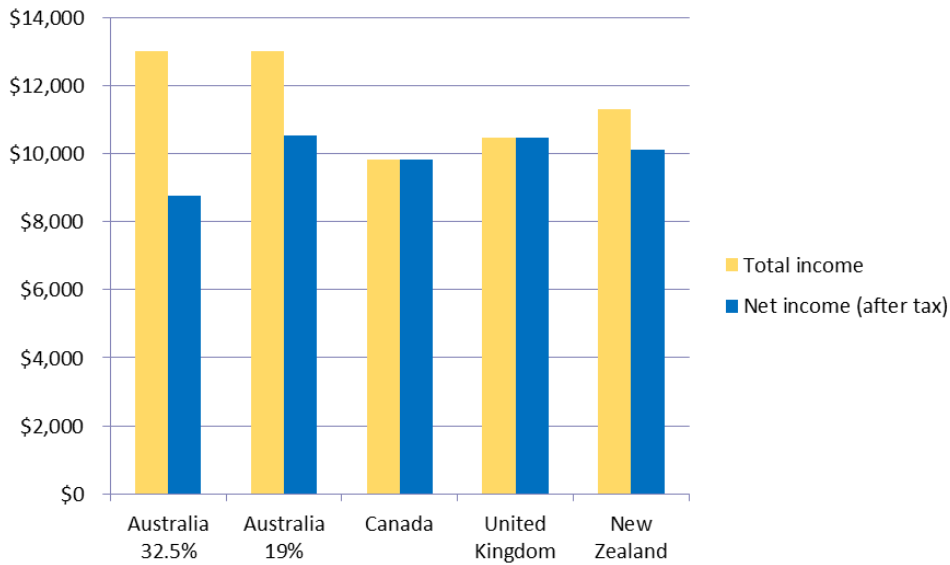
Option 3: 19 per cent tax rate applied to all WHMs up to \$37,000 (ordinary marginal rates to be applied from \$37,001 onwards)

Benefits

This proposal will clarify the uncertainty around the tax rate that WHMs face. Providing WHMs with a tax rate lower than for non-residents will improve Australia's international competitiveness for backpackers. This will provide workers for the seasonal and temporary jobs in agriculture and tourism and support small businesses who engage seasonal labour. The labour supply of both regional and metropolitan seasonal workers is expected to increase.

A tax rate of 19 per cent, based on purchasing power parity (PPP) adjusted exchange rates, results in a competitive level of after-tax income (at the minimum wage), as shown in Figure 1 below. Additionally, a tax rate of 19 per cent provides simplicity since it is the same rate as the lowest tax rate for residents.

Figure 1: International comparison of total income and net income (average per WHM, Purchasing Power Parity adjusted exchange rate) for popular working holiday destinations⁴



WHMs contribute to the economy and form an important part of the seasonal labour market. WHMs not only fill roles in the agriculture and tourism sectors that are unlikely to otherwise be filled; they also spend significant amounts of money while in Australia. This consumption is viewed as particularly significant in remote areas across Australia.

A lack of data on the travel patterns of WHMs, including the occupations in which they work and the geographical distribution of their work, make it difficult to undertake robust assessments of the impacts of the tax on Australian industry. There is a view that anecdotal evidence is typically the only evidence available.⁵ As such, the expected impacts on WHM arrivals and labour supply have not been quantified.

There are two key benefits to the registration process. Registration will ensure only employers of WHMs will have the ability to withhold at the 19 per cent rate. In addition, the register will provide valuable data on who employs WHMs, what sectors they are engaged in and where the employers are located. This should help address data problems when trying to assess the impact of government policies. The register will be made public to allow WHMs to identify whether a prospective employer is registered (and can withhold tax at the 19 per cent rate).

Additional funding will enable the FWO to undertake further compliance activities to ensure employers of WHMs are compliant with the *Fair Work Act 2009* and other Australian workplace laws. This will work to protect WHMs and may contribute towards making Australia a more attractive destination for WHMs.

⁴ Treasury, from publicly available data.

⁵ Deloitte 2016, *Independent stakeholder engagement on the Working Holiday Maker Visa review*, Report for the Department of Agriculture and Water Resources, Deloitte Touche Tohmatsu, September 2016.

Additional compliance resources are expected to increase the number of cases FWO can take to court. Employers found to be not complying with the *Fair Work Act 2009* and Australian workplace laws could be deregistered following a court order.

The ATO will establish the register to support compliance activities undertaken by various agencies, including the FWO. The register will also provide data on the work activities of WHMs, while imposing a low compliance burden on employers.

The ATO will use the updated Tax File Number (TFN) declaration form and data matching activities to ensure the 19 per cent rate is only being accessed by WHMs working for registered employers. It will also allow the ATO to advise employers if an individual employee is ineligible to receive the benefits of the 19 per cent withholding.

These reporting requirements will create an incentive for employers to register in order to attract WHMs. The ATO will report annually on WHMs along the lines of the Agricultural Land Register.

A range of penalties could be applied to employers by the ATO for breaches of the tax laws, including failing to register. Employers could also be deregistered by the ATO or by Court order following action by the FWO in relation to breach of employment conditions. The ATO will leverage off existing interactions with government agencies to identify WHM taxpayers and ensure that they are taxed at the correct rate.

This measure provides WHMs who would be considered non-residents under the AAT ruling with a lower tax rate. As such, it should encourage tax compliance on behalf of both the employer and the WHM. A lower rate provides less incentive for WHMs to claim to be residents when completing employment declarations. It also provides less incentive for employers to pay WHMs outside the tax system.

Costs

Registration for employers who currently employ WHMs will be simple and easy, and can be done by answering a few questions by phone, email or online. For new employers of WHMs, this requirement will be incorporated as part of existing ATO employer withholding registration. This will limit the compliance costs that businesses face.

Employers and WHMs will need to become familiar with the new tax rate and conditions associated with registration. Employers will also be required to update record-keeping systems to ensure the new rates are applied. WHMs will also need to learn about the conditions associated with employer registration and how to determine whether their employer is registered. This will be low cost for them since it is proposed to be available on the Australian Business Register.

Regarding ongoing compliance costs, WHMs will need to determine whether their employer is still a registered employer.

This proposal is expected to result in a low overall compliance cost impact, comprising a low implementation impact and a low increase in ongoing compliance costs.

The Government's proposal to provide an additional \$10 million funding to the ATO and the FWO for compliance initiatives and to address workplace exploitation of WHMs will have no compliance cost as enforcement of the law is not a compliance impost.

The cost to Budget of the lower tax rate is estimated to be \$300 million over the forward estimates.

Net Benefit

The recommended policy package includes this option and the option to increase the rate of tax on the DASP for WHMs to 95 per cent. It is expected that the combined impact of lowering the marginal tax rate to 19 per cent and imposing a tax rate of 95 per cent on WHMs superannuation balances when they depart Australia will deliver net benefits to WHMs, which will make Australia a more attractive working holiday destination relative to the status quo.

Superannuation does not assist WHMs with ongoing costs during their working holiday in Australia because it can only be claimed (and thus spent) after a WHM leaves Australia via a DASP. In contrast, the rate of income tax is an important factor in a potential WHM's decision on where to visit. This is because a lower income tax rate means more money in hand to spend during their holiday in Australia. A 19 per cent tax rate will offer a lower tax rate for most WHMs, relative to the status quo (existing law as clarified by the AAT). As such, it is expected that the number of WHMs will increase as will the number of hours they spend working.

It is estimated that there are currently around 55,000 employers employing WHMs. These businesses will predominantly bear the cost of complying with the new tax rates and reporting requirements. It is expected that there will be an average compliance cost of \$264 per business for implementation with no ongoing costs. These costs are likely to be small relative to the benefits these businesses accrue from the expected increased labour supply.

For WHMs, the compliance costs are expected to be \$22 each up front and an annual ongoing cost of \$5 per individual. It is expected these will be insignificant relative to the benefits of the certainty that this proposal will provide and lower tax rate they can access, relative to those faced by non-residents.

Compliance cost impact

Using the regulatory burden measurement framework, it has been estimated that the measure will increase compliance costs by an average of \$2.9 million per annum.

These annual compliance costs were calculated by distributing the expected implementation costs over a ten year period and adding that to the annual ongoing compliance cost.

Table 8: Regulatory Burden Estimate Table

Average annual regulatory costs (from business as usual)				
Change in costs (\$ million)	Business	Community organisations	Individuals	Total change in costs
Total, by sector	\$1.4	\$0.06	\$1.4	\$2.9

The above table averages the implementation costs over a ten year period.

Option 4: Reduce Australia’s WHM (417 and 462) visa application charge by \$50 to \$390 from 1 July 2017

Benefits

Decreasing the visa application fee is expected to add to Australia’s attractiveness as a destination for WHMs. The cost of applying for a visa contributes to the upfront cost of a working holiday. WHMs coming to Australia help address the agriculture and tourism sectors’ demand for itinerant workers and provide a seasonal labour supply for regional and metropolitan employers.

As noted in Table 5, the WHM visa application charge has increased from \$195 in 2008-09 to \$440 in 2015-16. The largest of these increases took place in 2013-14 when the visa application charge was increased by \$85. Reducing this charge by \$50 (to \$390) from 1 July 2017 will return the real cost of the application charge to about the same level it was in 2013-14.

Costs

The cost to the Budget is estimated to be \$30 million over the forward estimates. This proposal is not expected to impose additional regulatory burdens since it is purely a price change.

Net Benefit

Decreasing the visa application fee is expected to add to Australia’s attractiveness as a destination for WHMs. WHMs will pay tax and stimulate economic growth through both their consumption and employment. This benefit is expected to be greater than the fiscal cost of decreasing the cost of visa application.

Option 5: Allow WHMs to stay with one employer for up to 12 months, as long as the second six months is worked in a different region

Benefits

This proposal will benefit WHMs by providing them more flexibility in the kind of employment they can undertake in Australia. This flexibility could increase the amount of time that some WHMs spend in Australia. WHMs spending more time in Australia will give them more time to contribute to the economy and form a vital part of the seasonal labour market.

Employers are expected to bear the greatest benefits of this proposal. By expressly allowing WHMs to stay with one employer for up to 12 months, as long as the second six months is in a different

region, employers will be able to retain staff for longer periods of time. This change will reduce the cost to employers in training their workers. This leads to a compliance saving. Additionally, allowing employers to stay with one employer for longer will allow these workers to gain experience and become more productive.

The compliance saving is calculated by assuming that employers will train 5,000 fewer employees each year. It is estimated that this will reduce training by 20 hours per an employee at a cost of \$65.45 per hour (this includes wage and non-wage costs). This has a total compliance saving of \$6.5 million.

Providing WHMs with the choice to stay with an employer they know and trust for 12 months would reduce the risk of exploitation, as the WHMs would not need to take the risk of changing jobs to work for a potentially unscrupulous employer.

Costs

There are no additional costs from this policy option.

Net Benefit

Since there are no additional costs, the net benefit is positive. This change should assist employers by decreasing the need to train new workers. It should assist WHMs by providing them more flexibility and allowing them to stay in Australia for longer.

This option balances the benefits to employers and WHMs with the primary purpose of the WHM visa program, which is to holiday in Australia while undertaking work.

Regulatory Burden Estimate

Table 9: Regulatory Burden Estimate Table

Average annual regulatory costs (from business as usual)				
Change in costs (\$ million)	Business	Community organisations	Individuals	Total change in costs
Total, by sector	(\$6.5)	n/a	n/a	(\$6.5)

Option 6: Increased funding for a Tourism Australia advertising campaign

Benefits

An advertising campaign specifically targeting potential WHMs is expected to be effective in increasing the number of WHMs coming to Australia. By increasing global youths' understanding of the opportunities of simultaneously working and holidaying in Australia, it is expected that Australia will become a more attractive destination for potential WHMs.

Increasing the number of WHMs coming to Australia will help address the agriculture and tourism sectors' demand for itinerant workers.

Costs

The cost to the Budget will be the \$10 million provided to Tourism Australia. The proposal is not expected to impose additional regulatory burdens on businesses or individuals since it is primarily a Government initiative.

Net Benefit

The money spent on the advertising campaign is expected to attract more WHMs, which will help meet Australia's demand for seasonal workers. These workers will both pay tax and stimulate economic growth through both their consumption and employment. This benefit is expected to be greater than the fiscal cost of the advertising campaign.

Revenue raising measures

There are two revenue raising measures to offset the budgetary cost of the above changes.

The revenue raising measure of a one-off increase to the Passenger Movement Charge of \$5 is estimated to raise \$260 million over the forward estimates. There is expected to be no compliance costs for this one-off price change.

The measure to increase the tax on WHMs' superannuation payments when they leave Australia to 95 per cent from 1 July 2017 is estimated to raise \$105 million over the forward estimates. This is expected to result in a low overall compliance cost impact, comprising a small implementation cost for business.

This change is consistent with the objective of superannuation, which is to support Australians in their retirement, not to provide additional funds for WHMs when they leave Australia.

Table 10: Financial impact of the best options, showing that the package offsets all fiscal costs (underlying cash balance \$m)

Option	Total FE
19 per cent tax rate applied to all WHMs	-300.0
Compliance for WHM employer register	-10.0
Lower visa application fees for WHMs	-30.0
Tourism Australia advertising campaign	-10.0
Increase the Passenger Movement Charge by \$5.00	260.0
Increase the tax on WHMs' superannuation payments when they leave Australia to 95 per cent	105.0
Total	15.0

Note that the fiscal impact of options 3 and 4 and the revenue raising measures are made with respect to 2015-16 Budget measure.

For all reporting periods, the Treasury portfolio has reported net compliance cost reductions and there is no reason why the portfolio will not continue to deliver on its red tape reduction targets this year, in line with the Government's regulatory reform agenda.

5. WHO WILL YOU CONSULT ABOUT THESE OPTIONS AND HOW WILL YOU CONSULT THEM?

Since the 2015-16 Budget decision, significant consultation has been undertaken with stakeholders in both industry and Government. This consultation has informed the development of the policy options considered in this Statement.

In February 2016, Australia's tourism ministers held a Tourism Ministers Meeting and discussed the importance of backpackers to respective jurisdictions. All jurisdictions discussed the changes to the WHM taxation arrangements, noting concerns that the 32.5 per cent tax rate might affect WHM visitation, and the viability of tourism businesses reliant on WHMs, particularly in regional Australia. The then Minister for Tourism and International Education agreed to engage his ministerial colleagues, the Minister for Immigration and Border Protection, the Minister for Employment, and the Treasurer on WHM issues.

In March 2016, a round of industry consultations with representatives from the agriculture and tourism sectors was held in Sydney. The meeting was chaired by the then Minister for Tourism and International Education, who was joined by the Assistant Minister for Agriculture and Water Resources and Assistant Minister to the Deputy Prime Minister.

During the 2016 election campaign, the Government agreed to review the 2015-16 Budget decision on WHMs. As part of this, Deloitte facilitated an independent stakeholder engagement exercise, which included workshops in each of Australia's State and Territory capitals, with 88 participants attending either in person or via telephone conference.⁶

A broad range of participants were invited, consisting of representatives from:

- the tourism sector, including all major industry associations, tourism industry councils, youth travel organisations and state tourism organisations;
- the agriculture sector, including the national and various state farmers federations, and product-level industry associations;
- unions; and
- labour hire companies.⁷

The Department of Agriculture and Water Resources ran an online submission process and survey, with all submissions and their attachments passed onto Deloitte for consideration. Responses were received from a wider range of stakeholders than in the stakeholder engagements, including

⁶ Deloitte 2016, *Independent stakeholder engagement on the Working Holiday Maker Visa review*, Report for the Department of Agriculture and Water Resources, Deloitte Touche Tohmatsu, September 2016.

⁷ Deloitte 2016, *Independent stakeholder engagement on the Working Holiday Maker Visa review*, Report for the Department of Agriculture and Water Resources, Deloitte Touche Tohmatsu, September 2016.

individual travellers, businesses, and other interested organisations outside the agriculture and tourism sectors.⁸ The stakeholder feedback was summarised into a report by Deloitte, which was provided to Government to help frame the proposed package.⁹ The report is available on the Department of Agriculture and Water Resources' website.

- These stakeholders' views, summarised below, have been considered in formulating the policy options: Stakeholders overwhelmingly expected the numbers of WHMs to fall as a result of the proposed 2015-16 Budget changes (i.e. to tax WHMs at the 32.5 per cent rate from the first dollar earned) and stated that anecdotal evidence suggested numbers were already declining as a result. There were very high rates of strong agreement with this view from all groups of respondents to the online survey.
- A large number of stakeholders pointed to a recent survey by Dr Jeff Jarvis (YHA Australia 2016) of WHMs indicating how they would alter their travel plans if they faced the higher tax rates. This survey reported that around 60 per cent of WHMs indicated they would not travel to Australia if the higher tax rate was in place.
- Stakeholders viewed that WHMs are well-informed of wages and tax rates, as well as the proposed changes announced in the 2015-16 Budget.
- Stakeholders considered that international markets could use Australia's higher tax rates as a way to market their destinations to WHMs.
- Stakeholders noted that regardless of whether financial concerns entered into the decision to participate in the WHM program, after-tax earnings were a determinant of how long WHMs were financially able to stay in Australia.
- The agriculture and tourism sectors proposed a flat tax rate for WHMs in the range of 15 to 19 per cent, with no tax free threshold. A rate of 19 per cent was proposed by the National Farmers' Federation and the Australian Dairy Industry Council. A lower tax rate was also supported by the Australian Council of Trade Unions and the vast majority of submissions from WHMs.
- Many stakeholders, such as the Australian Hotels Association, noted that labour shortages currently exist across both the agriculture and tourism sectors. Recruitment difficulties are seen to be exacerbated by the seasonal and short-term nature of many job opportunities, the fact that they are often located in remote areas, and the jobs can be for unskilled labour in tough conditions.
- WHMs are seen as being mobile, flexible, willing to 'give things a go' and sometimes more productive than local workers (due to prior work experience or tertiary education). This makes them a key source of labour for jobs that can be difficult to recruit for locally.

⁸ Deloitte 2016, *Independent stakeholder engagement on the Working Holiday Maker Visa review*, Report for the Department of Agriculture and Water Resources, Deloitte Touche Tohmatsu, September 2016.

⁹ Deloitte 2016, *Independent stakeholder engagement on the Working Holiday Maker Visa review*, Report for the Department of Agriculture and Water Resources, Deloitte Touche Tohmatsu, September 2016.

- Some stakeholders were concerned that the tax would disproportionately disadvantage regional Australia compared to metropolitan areas, as WHMs would have reduced incentive to travel outside of major cities to reduce the costs of their trip.
- Many stakeholders indicated a desire to access greater numbers of WHMs by expanding visa eligibility and removing some of the limits currently present, such as increasing the time a WHM can work with one employer. These stakeholders include the National Farmers Federation, the Tourism Accommodation Association, Restaurant and Catering Australia and United Why.
- Many stakeholders noted the relatively high visa costs for the Australian program, currently at \$440. It was also noted that the cost of the visa had increased at a relatively fast rate in recent years.
- General consensus among stakeholders was that WHMs should not be paid superannuation if they have no intention to use it for its intended purpose to fund retirement savings. Some stakeholders indicated that refunding superannuation contributions to Government could be an alternative to raising the tax. However, a high proportion of WHMs surveyed thought they should have access to their superannuation when they depart Australia.
- The Australian Tourism Export Council recommended a targeted global youth campaign to address the negative sentiment surrounding the 2015-16 Budget measure.

6. WHAT IS THE BEST OPTION FROM THOSE YOU HAVE CONSIDERED?

The best option is to implement policy options 3 to 6 as a package.

This package is estimated to decrease the regulatory burden by \$3.6 million.

The following revenue raising options will also be implemented:

- Increase the non-exempt passenger movement charge by \$5 (from \$55 to \$60) from 1 July 2017.
- Increase the rate of tax on the Departing Australia Superannuation Payment to 95 per cent from 1 July 2017.

This will allow the WHM package to be broadly budget-neutral.

7. HOW WILL YOU IMPLEMENT AND EVALUATE YOUR CHOSEN OPTION?

Options 3, 4 and 6 will be implemented through a legislative package, which will also include the two revenue raising options.

One challenge is to make sure employers are aware of the new withholding arrangements for WHMs, and also the new registration arrangements. The ATO will develop a communication strategy to inform businesses of the new rules and their obligations.

The ATO will leverage off existing interactions with government agencies, WHMs and their employers to ensure that:

- WHMs are advised of their tax status;
- employers register and withhold tax at the correct rate; and
- WHMs are taxed at the correct rate of tax when they lodge their income tax return.

This will be achieved by using information from sources such as a TFN application, TFN declaration, PAYG payment summaries and the income tax return itself.

The ATO will develop a simple registration process for employers who need to withhold tax from WHMs. Information as to who is a registered employer for this purpose will be publicly available. This will incentivise employers to register in order to attract WHMs, since unregistered employers will be required to withhold at the 32.5 per cent rate from the first dollar of income. The register will assist with enforcing compliance and will provide data that can be used to help inform future policy related to WHMs.

These actions would address the risk that WHMs self-assess as residents for tax purposes and be taxed at the incorrect rate.

There is a risk that potential WHMs will not be aware of the changes and as such consider Australia an unattractive working holiday destination. The Tourism Australia advertising campaign should assist in addressing this challenge by providing an opportunity to inform potential WHMs of Australia's competitiveness as a working holiday destination.

In implementing Option 5, the Department of Immigration and Border Protection will update policy guidance documents and communications materials to reflect that a WHM can work for the same employer for up to 12 months, as long as the second six months is worked in a different region.

Relevant Government agencies will undertake ongoing monitoring and reporting of the effectiveness of the measures. This includes an annual report that the ATO will prepare for Parliament on WHMs.

Given the limited data on WHMs, the employer register and associated reporting will provide useful data on the WHM sector. This will assist future policy development and evaluation in this area.

8. STATUS OF THE REGULATION IMPACT STATEMENT

Treasury prepared a RIS for early assessment of the 2015-16 Budget measure to increase the tax rate on all WHMs to 32.5 per cent from the first dollar of income. No early assessment RIS was prepared for options 3 to 6. This final assessment RIS has been prepared for the final decision.