31 January 2019

Mr Philip Gaetjens
Secretary to the Treasury
Langton Crescent
PARKES ACT 2600

Attention: The Manager, Pre-Budget Submissions
Email: prebudgetsubs@treasury.gov.au

Dear Mr Gaetjens

2019-20 Pre-Budget Submission

Thank you for the opportunity to contribute to the 2019-20 Pre-Budget consultation process.

Given the brought-forward Budget date, Chartered Accountants Australia and New Zealand (CA ANZ) provides only brief comments on an abbreviated range of topics.

This is an election year Budget, one likely to reflect policies designed to find favour in the electorate. Any largesse has the potential to damage the Government's credentials as a sound economic manager and requires careful justification and accurate costing.

Irrespective of the electoral cycle:

- CA ANZ is cautious about the economic conditions which Australia may face in the short to medium term and recommend a similarly cautious approach to the framing of this year's Budget.
- There are many important, on-going and difficult issues which the Budget should address in a disciplined, considered fashion.

Economic issues

There are a variety of looming economic factors that could negatively impact Australia in the short to medium term such as slowing economic growth in China, trade wars, and high debt levels. The Government and Opposition have also put forward proposals that have an impact beyond the forward estimates.

Australia could be heading into difficult economic times. The medium term potential impacts of negative looming economic factors and proposed policy changes is unclear.

Earlier this month Treasury released a paper noting that the financial impact of tax policies can be very different at maturity and lamenting the difficulty in providing medium term costings. Treasury's paper proposed that medium term costings be issued with caveats about factors of uncertainty, rounding estimates and or smoothing years.

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CA ANZ calls for greater public explanations of costings, especially those with long term impacts, and the presentation of sensitivity analyses regarding critical economic assumptions.

Given the fragility of the current budget position, caution should be taken when considering significant tax rate cuts or new tax expenditures.

This is not just good budgetary management: it is also essential to ensuring intergenerational equity.

The longer term budgetary position of Australia will be considered in the next intergenerational report which is due in January 2020. CA ANZ, along with many others, has long advocated for the GST base and rate to be broadened as part of a long term tax reform plan to create a more sustainable tax base. It would be useful if the authors of the next report contrasted the long-term budgetary projections based on the current tax system with a system which has greater reliance on GST.

The Hayne Royal Commission Final Report

The final report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry will be submitted to the Governor-General by 1 February 2019 and published by the Treasurer on 4 February.

Commissioner Hayne's recommendations are expected to have substantial ramifications for the future operation of the industry and particularly in an area of keen interest to CAs – the provision of financial planning advice to Australians.

No doubt the Government will prepare a considered response to the recommendations. It should also invest in a communications strategy which helps industry stakeholders and the Australian community understand the issues identified and the policy interventions proposed.

The Royal Commission has already flagged that *more* regulation is not necessarily the answer in all situations where problems have been revealed. CA ANZ agreed in our submission in response to the Commission's Interim Report.

CA ANZ therefore expects there will be a need for *further* consultations and collaboration between stakeholders and regulators such as ASIC and APRA on topics such as governance policies, controls and reporting, director's duties and accountability, cultural change programs, improved customer care and communication protocols, and revamped recognition and reward processes.

It is also important for the Government to give itself time to receive input on Commissioner Hayne's recommendations from Treasury and relevant regulators. The regulators will need to prepare their response plans to implement Government decisions (likely to include restructuring existing compliance arrangements and implementing new oversight processes).

Finally, CA ANZ urges the Government and regulators to foster a new sense of *professionalism* in the financial planning sector in the wake of revelations at the Royal Commission. This stance is reflected in our recent dealings with the Financial Adviser Standards and Ethics Authority where CA ANZ has have advocated for the educational and ethical standards required of Chartered Accountants to be recognised.

The Final Report represents an incredible opportunity for reform. It deserves careful scrutiny and a well-considered response, not a political bun-fight.

The Federal Budget provides the ideal platform for such a response to be unveiled by the Treasurer.

Taxation policy

Personal income tax cuts

The legislated personal tax cuts announced in the 2018-19 Federal Budget provided welcome relief for Australians, particularly those on average incomes, and were welcomed by CA ANZ. As noted earlier, further overly-generous personal income tax cuts are not advisable at a time when the Budget surplus should accumulate over the forward estimates to help fund fiscal stimulus measures, should they be needed as they were 10 years ago.

Clarity of Budget-night tax announcements

To avoid problems which have arisen in prior years, the Budget-night tax announcements must be sufficiently detailed for advisers and their clients to understand the key aspects of the policy proposed, especially where the start date for a particular measure precedes the publication of draft legislation.

Division 7A

Proposed amendments to Division 7A in the Income Tax Assessment Act 1936 are of particular interest to Chartered Accountants and their private company clients.

Consultations on the Consultation Paper for Targeted Amendments to Division 7A closed on 21 November 2018. Strong concerns were raised in the CA ANZ submission and by others, particularly about “old” unpaid present entitlement arrangements (pre-December 2009) and short time frames proposed for transitional arrangements.

CA ANZ urges the Government to use the Budget as a platform for announcing the outcome of its deliberations on the many submissions received. This announcement will need to be sufficiently detailed for advisers to confidently engage with their clients about new and existing Division 7A arrangements.

Post implementation review of the Tax Practitioners Board

The post implementation review of the Tax Practitioners Board (TPB), foreshadowed when the Tax Agent Services Act 2009 was enacted, is yet to be announced.

CA ANZ has repeatedly called for this review to take place. CAs are subject to increasing layers of regulation and see the review as an opportunity to streamline existing processes and create uniform codes of conduct for intermediaries (e.g. as between the requirements imposed on tax agents by the TPB and those being developed by the Financial Adviser Standards and Ethics Authority).

Promote Australia’s future as an online, efficient business community

CA ANZ urges a more effective dialogue with the Australian business community on the many beneficial online services which are being (or will soon be) implemented.

Single Touch Payroll for example is a precursor to a broader reporting platform for a range of employment functions at both Federal and State level. The modernisation of business registers is an important first step toward streamlining business reporting and reducing red tape. The Government's welcome support for the e-Invoicing pilot is not well known within the business community.

Relevant Ministers (i.e. portfolios dealing with taxation, small business and digital transformation) should collaborate to use the Budget as an opportunity to paint a picture for the modern ways in which business will be done in Australia, encouraging business operators to embrace change and invest in new technology and platforms.

Small business

Small businesses need more assistance in understanding cash flow and business planning. ATO research has shown that businesses that involve accountants early and regularly perform better than those that don't. Incentives are needed to ensure that people starting small businesses obtain good financial advice – basic cash flow and business planning. CA ANZ supports proposals to provide a tax offset to small businesses for the costs of obtaining business advice from approved accounting providers.

Small businesses are also overwhelmed by the amount of regulation. CA ANZ strongly supports the Modernisation of Business Registers and the National Business Simplification Initiative. Both of these measures have the potential to greatly reduce the amount of duplication of compliance activities without compromising the policy objectives of the underlying regulation. CA ANZ also supports budget measures which will assist the digitalisation of small business.

CA ANZ commends the Government's recent decision to increase the threshold for the instant asset write off for small business from $20,000 to $25,000 and extend the measure to 30 June 2020. This write-off should be made a permanent feature of the tax system rather than being extended on a year-by-year basis.

CA ANZ also sees merit in the Australian Labor Party's proposed Australian Investment Guarantee in that it recognises larger capex outlays with a 20% first year write-off for all business taxpayers.

Sustainable retirement incomes

Financial Services Royal Commission and Productivity Commission recommendations

CA ANZ encourages the Government to announce which recommendations of the Financial Services Royal Commission and Productivity Commission review into superannuation it intends to fully accept, take up with modifications or reject and the expected timeframes for implementation. The superannuation sector is constantly subject to change and adjustment and it is essential that funds have time to prepare for any new policies affecting how they operate.

Replace annual contribution caps with lifetime caps

The Government should review the current process of assessing the annual concessional contributions made for each superannuant which causes severe tax penalties for those who exceed the various contribution caps.

This annual assessment process is complicated, costly to administer and does not work. It is based on the false assumption that every superannuation investor will make contributions at a constant rate throughout their working life. It has a particularly negative impact for those with broken work patterns, such as women who take a break from paid work to raise their family, although the proposed catch-up contribution cap mechanism will ameliorate this problem to some extent.

The reality is that most people's ability to make significant super contributions only occurs later in their working lives. The concessional contribution cap needs to be set at a level that acknowledges this typical experience.

CA ANZ recommends removing the annual contribution cap assessment process and replacing it with lifetime contribution caps, including appropriate transitional arrangements.

Joint spousal accounts

The Government should consider the suitability of joint spousal accounts within superannuation funds, including for pensions. The advantages of this approach have been put forward by a number of stakeholders and include:

- a substantial reduction in the number of superannuation accounts (thereby reducing costs); and
- a much clearer indication for couples of how they are tracking towards retirement income goals.

Review binding death benefit nominations

CA ANZ agrees with the critical comments made in *Retail Employees Superannuation Pty Ltd v Pain [2016] SASC 121* about binding death benefit nominations (BDBN) and recommend the Government review the relevant provisions in the Superannuation Industry (Supervision) legislation so that in the future the law delivers better outcomes for consumers and superannuation funds.

CGT relief for fund mergers and restructures

CA ANZ welcomed the 2017 Federal Budget's announcement to provide tax relief for superannuation fund mergers until July 2020 to enable: "super funds to transfer capital and revenue losses to a new merged fund, and to defer taxation consequences on gains and losses from revenue and capital assets".

The Government should consider a *permanent* fund merger relief in view of the Productivity Commission's ongoing three-stage review into the efficiency and competitiveness of the superannuation industry.

In addition, this concession should be expanded to provide the same relief when superannuation funds wish to restructure so as to transfer some or all of their investment holdings into one of more related pooled superannuation trusts. This would give two or more APRA regulated super funds the opportunity to merge their investment holdings and gain the benefits of scale while also allowing the funds to remain separate entities. This concession would provide many of the cost savings that fund mergers often allow without the burden of fully completing fund mergers.

Appropriate policy settings needed to prevent elder abuse

The Australian Law Reform Commission report Elder Abuse - A National Legal Response made a number of recommendations about preventing elder abuse in the superannuation sector, including to the BDBN rules mentioned above. Developing the Government's response to this report is part of the Attorney-General's Department's 2017 – 2021 Corporate Plan.

Permit electronic delivery of all fund documentation

There are a range of superannuation fund documents where relevant regulations still require written documents. The existing paper-based documentary requirements in the superannuation laws should be reviewed and, where possible, the law changed to permit electronic preparation and delivery if the fund member consents to managing their affairs online, with cost savings passed onto fund members.

Actuarial certificates for self-managed superannuation funds

If any portion of a SMSF's income that is not in 100% pension phase (typically because there is a mix of pension and accumulation phase monies) for part of an income year, and the assets are not segregated, the ATO view is that the SMSF trustee is required to use the proportionate method to determine the exempt current pension income and consequentially is required to obtain an actuarial certificate for that part of the year if it does not wish to pay income tax on fund earnings during that period.

It has been industry practice for funds in this situation to obtain an actuarial certificate for the whole of the income year. The ATO allowed this policy to be used for the 2016-17 financial year but not future financial years.

The requirement to obtain an actuarial certificate for part of an income year is onerous and expensive for a SMSF. CA ANZ does not believe industry practice leads to revenue leakage given the method that actuaries typically employ to determine the exempt current pension income percentage.

Consequently, there should be a regulatory amendment to permit industry practice to continue indefinitely.

Superannuation fund death benefit payments

The ATO's Practical Compliance Guide 2017/6 says: [It] "has become aware that industry participants have inferred that s307-5(3) ITAA 1997 provides a mechanism for the spouse of a deceased member to roll over a death benefit income stream and retain the amounts as their own superannuation interest without the need to immediately cash-out that benefit.

"The Commissioner's view is that the roll-over by a spouse of a deceased member's death benefit income stream does not change a superannuation provider's regulatory requirement to cash the deceased member's superannuation interest as soon as practicable. This means that the superannuation provider that has received the rolled over death benefit must immediately cash the deceased member's superannuation interest.

"However, the Commissioner acknowledges that the industry practice that has developed means that a number of death benefit income streams have been commuted, rolled over and treated as the spouse's own superannuation interest.

"The Commissioner will not apply compliance resources to review whether a SMSF has complied with the compulsory cashing requirements relating to a death benefit as set out in regulation 6.21 of the SISR provided that:

- The member of the SMSF was the spouse of the deceased on the deceased's date of death; and
- The commutation and roll-over of the death benefit income stream is made before 1 July 2017; and·
- The superannuation lump sum paid from the commutation is a member benefit for income tax purposes because it meets the requirement of subsection 307-5(3)."

CA ANZ is concerned about the lack of regulatory certainty for those who provided advice and completed transactions on behalf of clients as allowed by this PCG.

While the PCG gives someone in this situation protection from complying with the superannuation laws from regulator action when dealing with SMSFs, it does not necessarily protect them from action commenced by other parties (such as aggrieved relatives who did not benefit from a fund applying PCG 2017/6).

A safe harbour – via a regulatory amendment to permit the ATO's administrative concession – is essential not only for super fund trustees but also their advisers such as accountants and financial advisers who have acted in good faith.

SMSF defined benefit and other restrictive pensions

The Government should work with the superannuation industry to provide an opportunity for individuals to cease their defined benefit and other restricted pensions, such as market linked, flexi and term allocated pensions, so they can transfer the net proceeds to account based pensions.

There are a complex and inter-related range of superannuation, tax and social security law considerations that the Government will need to consider, working with interested parties in the superannuation industry and related disciplines.

Superannuation Guarantee amnesty

CA ANZ welcomed the Government's one-off amnesty for employers not meeting their superannuation obligations but a key enabling measure – Treasury Laws Amendment (2018 Superannuation Measures No 1) Bill 2018 – has stalled in the Senate.

CA ANZ has made representations to the Australian Labor Party that it should support the amnesty, thereby encouraging employers to come forward and rectify their employees' superannuation balances. Hopefully the above Bill will be passed in the limited sitting time available before the Budget is delivered.

If not, the Budget should include clarification of the status of the amnesty and whether the timeframe will be extended in the hope that legislative support occurs after the Federal Election.

Closer Economic Relations with New Zealand

Streamlining and red tape reduction

CA ANZ strongly supports Closer Economic Relations between Australia and New Zealand and urge the Government to entrust regulators with the responsibility of getting more runs on the board.

The Trans-Tasman e-Invoicing collaboration occurring between the ATO and the Ministry of Business, Innovation and Employment is an example of what can be done when talented officials are trusted by the relevant Ministers to work together on a project with clear outcomes.

There is merit in challenging agencies such as the ATO and ASIC to identify and progress projects with their New Zealand counterparts which streamline the way trans-Tasman business is done and reduce red tape.

Chartered Accountants in both countries would gladly participate in workshops to help identify opportunities. An example which the CA ANZ Tax Team recently heard of involves a reduction in country by country tax reporting obligations for companies whose only international foray is trans-Tasman.

Brexit – Implications for Australia – Skills-based work visas

At the time of writing, a “No Deal” Brexit appeared a distinct possibility. Such an outcome could bring risks and opportunities for Australian businesses and citizens in the United Kingdom and Europe.

CA ANZ commends the Government for convening a whole-of-government coordination process to continuously assess the implications of Brexit for Australia. An update from this group published on Budget night, together with a strategy for involving private sector stakeholders, would be welcomed.

There is also the possibility of new Free Trade Agreements resulting from Brexit. The ability to work and gain experience in the UK and Europe (and for expats to work here) is vital to building skills which ultimately help Australia prosper. In the wake of the recent publication of the UK’s Future skills-based immigration system, CA ANZ urges the Government to continue to advocate strongly for work visa programs which promote the flow of talented service-industry workers such as accountants between the relevant jurisdictions.

Engage with the Australian community on living standards

The Federal Budget is unfortunately often portrayed in terms of bottom-line economic outcomes and financial winners and losers.

The many and sometimes disparate Budget announcements often fail to cut-through to Australians. Good news about our comparatively strong economy may not resonate with those who feel their living standards have plateaued or fallen.

The overall living standards enjoyed by the majority of Australians are actually quite high, and this message should be front and centre on Budget night and linked to community-based Budget policy measures that will:

- Further help those who are less well-off get ahead, and\or
- Ensure an even brighter future for the next generation.

CA ANZ appreciates the challenges in devising and effectively communicating such messages in a holistic way, particularly given this year's truncated budget preparation process.

The New Zealand Treasury's Living Standards Framework provides a useful reference point to consider the collective impact of policies on community and intergenerational wellbeing. There is even a dashboard to help communicate current and aspirational outcomes which help identify priorities in policy decision-making.

This work has its share of detractors, but there is merit in the Government explaining our society's status on a *range* of multi-dimensional factors (such as financial, social, natural and human capital) and identifying in broad terms how newly announced policies will improve these outcomes.

Also, Australia has committed to the UN Sustainable Development Goals (SDGs) and completed its first Voluntary National Review in 2018. The 2030 agenda for sustainable development represents a broad global perspective of what our future looks like and covers aspects from poverty and climate change to innovation and economic growth. The SDGs explicitly call on all nations and businesses to help solve these sustainable development challenges. There are significant opportunities and benefits for Australia through achieving the SDGs. However, awareness of the SDGs within the Australian community is low, and the Australian Government has an important role to play in educating our community. This will also assist businesses in their contribution to the SDGs, as stakeholders will better understand the value proposition.

There is another important reason why the Government might choose to invest in highlighting living standards and goals.

The looming Federal Election is expected to create debate about inequality. There is a risk that Australian society will be portrayed inaccurately.

To encourage an *informed* debate about inequality, it would be useful for the Government to draw upon the resources at its disposal to publish an accurate picture of Australia's *current* living standards, with a warts and all discussion of inequality issues which need addressing.

Provide clear direction for Australia's pathway to a low emissions economy

Australia has committed to emission reductions through the Paris Agreement, which has a goal to limit global warming to well below 2 degrees and an aspirational target of 1.5 degrees. The Intergovernmental Panel on Climate Change (IPCC) released their Special Report on Global Warming of 1.5ºC in October 2018. This report noted that there were clear benefits to people and natural ecosystems of limiting global warming to 1.5 degrees compared to 2 degrees and that this could go hand in hand with ensuring a more sustainable and equitable society. The report projects that coral reefs will decline by a further 70 to 90% with 1.5 degrees of global warming. Larger losses (more than 99%) are forecast at 2 degrees. This has significant implications for Australia, with the Great Barrier Reef alone calculated to contribute $6.4 billion to the Australian economy and an economic, social and icon asset value of $56 billion according to a 2017 Deloitte report.

CA ANZ strongly supports the recommendation of the 2017 Senate Economics References Committee Inquiry into carbon risk for the Government to end the uncertainty regarding climate change policy and develop a stable and consistent policy. The Government's response to this recommendation included the National Energy Guarantee, which has since been abandoned.

The Government should provide a clear direction of Australia's pathway to a low emissions economy by 2050. Climate change policy should not be subject to political changes and instead should provide certainty for the future to enable business and households to transition to the low carbon economy.

CA ANZ supports the Government reviewing its climate policy holistically across the spectrum of existing policies to gauge the impact of these policies and identify where any gaps or conflicts actually exist. The Government should embed these policy commitments in other areas of the economy, to ensure a holistic approach to climate change. For example, there is significant opportunity to use innovation as a lever to help create new industries and technologies in Australia that are fit for purpose in a carbon constrained world.

Seek bi-partisan support for continued stakeholder consultation during election campaign

Bipartisan support should be sought for continued stakeholder consultation on topics which Treasury, the ATO, ASIC, APRA and other regulators can progress during the election campaign period when Parliament is prorogued.

There are many important, politically non-contentious topics where consultation is already underway, and further topics are expected to emerge once the Government's response to the Final Report of the Hayne Royal Commission is published on 4 February 2019.

Should you wish to discuss the contents of this submission, please contact the following CA ANZ subject-matter specialists in our Advocacy and Professional Standing team:

Taxation Michael Croker CA, Tax Leader Australia Ph:(02) 9290 5609 michael.croker@charteredaccountantsanz.com	**Superannuation** Tony Negline CA, Superannuation Leader Ph: (02) 8078 5404 tony.negline@charteredaccountantsanz.com
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Yours faithfully,

Simon Grant FCA
Group Executive – Advocacy, Professional Standing and International

Appendix A

Chartered Accountants Australia and New Zealand

CA ANZ is made up of over 120,000 diverse, talented and financially astute professionals who utilise their skills every day to make a difference for businesses the world over.
Members of CA ANZ are known for professional integrity, principled judgment and financial discipline, and a forward-looking approach to business.

We focus on the education and lifelong learning of members and engage in advocacy and thought leadership in areas that impact the economy and domestic and international capital markets.

We are represented on the Board of the International Federation of Accountants and are connected globally through the 800,000-strong Global Accounting Alliance, and Chartered Accountants Worldwide, which brings together leading Institutes in Australia, England and Wales, Ireland, New Zealand, Scotland and South Africa to support and promote over 320,000 Chartered Accountants in more than 180 countries.