

Avant Mutual Group Limited

Submissions on

Reform to deductions for education expenses discussion paper May 2013

1. About Avant

Avant Mutual Group Limited ("Avant") is Australia's leading medical defence organisation and one of Australia's leading mutuals, offering a range of insurance products and expert legal advice and assistance to over 60,000 medical and allied health practitioners and students in Australia. Our insurance products include medical indemnity insurance for individuals, practices and private hospitals and private health insurance, which is offered through our subsidiary The Doctors' Health Fund Pty Limited.

Our members have access to medico-legal assistance via our Medico Legal Advisory Service. We have offices throughout Australia, providing personalised support and rapid response to urgent medico-legal issues.

We provide extensive risk advisory and education services to our members with the aim of reducing medico-legal risk.

Avant provides this submission as a member organisation representing and providing education services to 60,000 medical and allied health practitioners and students in Australia.

2. Summary and general comments

Avant is strongly opposed to the proposed change to taxation laws to place a cap of \$2,000 on tax-deductible work-related education expenses.

Our key concerns are that the cap will:

- decrease the ability of medical practitioners and other health care professionals to educate themselves to the standard expected of them both by their professions and the community
- be a disincentive to education and training and the pursuit of excellence and quality in health care
- inhibit the ability of practitioners to increase their skills and knowledge, and could lead to a loss of skills and knowledge
- have a significant negative impact in particular on self-employed practitioners, and on practitioners working in rural and remote areas because of the additional distances they need to travel to access training
- lead to increased medico-legal risk.

One of the objectives of the proposed reforms (noted in the introduction to the discussion paper) is to encourage businesses to provide all necessary education to their employees. However, many practitioners are either self-employed, employed by service companies, or are independent contractors. These practitioners are unable to take advantage of education programs offered by employers, but must fund education themselves. The discussion paper concedes this by noting, in paragraph 19, that much of the discussion paper refers to "employer provided" circumstances. It acknowledges that for many individuals these circumstances do not apply as they fall under the personal services income rules. Many health care practitioners fall with the ambit of these rules.

Even employed practitioners risk being disadvantaged by the proposed changes. Not all education is employer-provided and employed practitioners self-fund many of their education expenses.

The cap on education expenses will unfairly impact practitioners in rural and remote areas, who may have difficulty accessing quality education, due to having to travel long distances, or having poor quality internet services.

Practitioners should be able to claim tax deductions for legitimate work-related expenses, and those expenses should not be subject to a cap.

3. Consultation questions

We have provided comments on the consultation questions 1, 2, 3, and 11 from the discussion paper.

1. In your industry or field, are there studies or courses that are compulsory and must be completed in order to meet licence requirements?

A hallmark of professionalism is the ability to stay up to date, to self-reflect and to self-regulate. Medical practitioners are required to comply with education standards as a condition of their registration under the Health Practitioner Regulation National Law. The aim of mandatory continuing professional development (CPD) in the medical context is:

*to maintain, develop, update and enhance ... knowledge, skills and performance **to ensure that they deliver appropriate and safe care.***¹
[emphasis added]

The Medical Board of Australia has published a mandatory Continuing Professional Development Registration Standard that details CPD requirements (accessible at <http://www.medicalboard.gov.au/Registration-Standards.aspx>). Medical specialists are required to fulfil the requirements set by their colleges, while those with general registration are required to undertake a minimum of 50 hours per year. Those with limited registration have different requirements. CPD must include a range of activities to enhance knowledge such as courses, conferences and online learning. A cap of \$2,000 will be reached very quickly with these CPD requirements.

¹ Medical Board of Australia Continuing professional development registration standard <http://www.medicalboard.gov.au/Registration-Standards.aspx> (accessed 19 June 2013)

Failure to meet the CPD standard is a breach of the legal requirements for registration and a practitioner may face disciplinary action as a result.² The consequences of failing to meet CPD requirements are significant both for the practitioner and ultimately for the public.

The Medical Board of Australia is currently considering whether to introduce a revalidation system into Australia. There are many forms of such a system, but it is anticipated that it will have a significant educational component. Under a revalidation system, CPD requirements for medical practitioners may increase.

2. Is training undertaken in your industry predominantly held in Australia or overseas? Can you provide examples?

Training is undertaken both overseas and within Australia. The importance of medical practitioners keeping up to date with overseas developments should not be underestimated. It is vital for our health system and the delivery of appropriate and safe care to patients that medical practitioners apprise themselves of the latest developments and technologies. The cap on education expenses would severely hamper the ability of medical practitioners to do this.

3. In employment relationships, are employees largely obliged to incur work-related education expenses themselves or are they employer provided? Do you anticipate this changing in response to this measure?

Many practitioners are self-employed, employed by service companies, or are independent contractors. These practitioners are not able to take advantage of education programs offered by employers.

The discussion paper concedes this by noting, in paragraph 19, that much of the discussion paper refers to "employer provided" circumstances. It acknowledges that for many individuals these circumstances do not apply as they fall under the personal services income rules. Many medical practitioners, especially specialists and subspecialists, are self-employed or independent contractors so do not have an employer who can provide relevant education. This is not likely to change in response to these proposed changes to the tax laws.

Nevertheless even employed practitioners risk being disadvantaged by the proposed changes. Not all education is employer-provided and employed practitioners self-fund many of their education expenses.

11. Are there any unintended consequences from the proposed reforms?

We are concerned that the cap will decrease the ability of medical practitioners and other health care professionals to educate themselves to the standard expected of them both by their professions and the community.

We are concerned that the cap will be a disincentive to undertaking essential training. The cap will inhibit the ability of practitioners to increase their skills and

² See section 128(2) of the Health Practitioner Regulation National Law.

knowledge, and will in turn lead to a loss of vital skills and knowledge. This may have a significant negative impact in particular on practitioners working in rural and remote areas because of the additional distances they need to travel to access training.

We are particularly concerned that a loss of skills and knowledge will compromise patient safety and quality care, and lead to increased medico-legal risk. In our experience better education results in improved patient safety and less medico-legal risk. Further, research has shown that failure to stay up to date with CPD has been cited as a factor contributing to increased alcohol use in medical practitioners.³

Avant strongly opposes the proposal (at paragraphs 49 and 50 of the discussion paper) to include in the cap education expenses included in a payment for broader services. The proposal requires education expenses to be apportioned and included in the cap. This would appear to apply to membership of medical colleges and other organisations that provide education programs and ongoing training for fellows, and a medical defence organisation (such as Avant) that provides medico-legal and risk education programs for members.

As a member organisation, Avant provides medico-legal and risk education to members as a component of their membership fees. The discussion paper states at paragraphs 49 and 50 that if membership to an organisation contains an allowance for continuing professional development training, the organisation needs to itemise the value of the training component.

This will be difficult particularly where different programs are offered for different categories of members, and where there are members who do not or cannot take advantage of the education offered as part of their benefits of membership.



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³ Nash L et al. Factors associated with psychiatric morbidity and hazardous alcohol use in Australian doctors. *MJA* 2010; 193:161-166