



ACGR Response to Technical Paper: ATO Advice on Scholarships

The Australian Council of Graduate Research is keenly aware that a robust and effective scholarship system is a critical requirement to support Australian's research training and research and innovation agenda. We therefore welcome this opportunity to make a submission in response to the technical discussion paper on the Review of ATO advice on scholarships.

General Advice vs Class Rulings

The Council supports the assertion that general public advice explaining the ATO views on the interpretation of the taxation laws as they relate to amounts paid as a scholarship, bursary, educational allowance or educational assistance will be of assistance to taxpayers and scholarship funders. However, noting the variability and complexity of various scholarship arrangements and the burden of proof implications arising from reliance on Guidelines alone, we would expect that the rulings system will not be diminished in any way nor the resources available to respond to requests for rulings diminished. We understand that applying for a ruling also has the incidental benefit (for the taxpayer) of opening up the objections and appeals process if the ATO's Ruling does not provide the answer that the taxpayer believes is warranted on the facts. This is a right that should not be jeopardized by the proposal to increase the information available to taxpayers.

Overall Response

However we have several concerns about the premises upon which the proposed advice is based. The classification of higher degree by research scholarships funded by industry partners as "payments wholly or principally for labour" and hence not exempt from taxation are antagonistic to federal government Education Minister's push for increased industry engagement from the university sector and would make it more difficult for universities to increase their level of engagement with industry. Industry engagement with graduate research training programs and candidates can take a variety of forms so ACGR's response to this paper focuses on two key assumptions:

1. That any government advice should not, intentionally or unintentionally, undermine the federal National Innovation and Science Agenda which recognises that industry-research collaboration is a key factor to more profitable, sustainable and export-focused industries and encourages our best and brightest minds to work together to find solutions to real world problems and to create jobs and growth.
2. That it would be counter-productive to in any way disadvantage or discourage those high quality higher degree by research (HDR) candidates who are competitively selected to receive either federally or university scholarships being



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able to be supported by these awards by reason of any period of time engaged in industry-focused work.

Federal Priorities for Education, Science and Industry

In a series of recent policy statements, including the National Innovation and Science Agenda (NISA) and the government response to the ACOLA Review of Research Training, the federal government has clearly signaled the need for universities and researchers, including HDR candidates, to form meaningful collaborations with industry and other users of research, pursue entrepreneurial opportunities and help transform our economy.

Through the NISA initiative Sharper Incentives for Engagement, additional funding of \$180 million has been committed over the forward estimates to increase incentives for universities to engage with industry and other end users of research.

The Government will also support HDR students to connect with industry through a commitment of \$28.2 million over four years to expand the Australian Mathematical Sciences Institute's internship program to a national scale program, providing 1,400 new placements for PhD researchers, with a particular focus on women researchers

Both of these initiatives overtly encourage the integration of industry aligned or based research and internships within the existing coursework and graduate research degree programs.

The Department of Education and Training has also changed funding incentives so that more university funding is allocated to research that is done in partnership with industry. The new Research Training program will provide around \$1.01 billion in 2017 to support domestic and international higher degree by research (HDR) students, training the next generation of researchers and innovators. These changes will specifically encourage universities to broaden and deepen their engagement with industry and other research users, while still retaining a focus on academic excellence.

The Nature of Contemporary Higher Degree by Research Programs

A higher degree by research is and always has been an academic and educative endeavour, but the nature of these experiences is changing. HDR candidates are increasingly working with industry partners both in informal and contracted arrangements. All research degrees and associated industry placements and internships are designed, delivered and monitored with the primary purpose of developing the research, innovation and employability skills and abilities of the enrolled candidates. Whilst the primary focus of their enrolment is educative, the research proposal, funding contract, internship arrangement or scholarship agreement may require that the student



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“works with” and/or aims to solve a research problem that will have a direct benefit to the industry partner/potential scholarship funder.

Interpretation of the Act

It is therefore of great concern that the discussion paper specifically excludes exemption from income tax “if the recipient performs any employee or contract for labour services” which extends to “research conducted for on behalf of the scholarship provider even where the recipient is undertaking a research scholarship, if the granting of the scholarship is condition on such service performed”.

Also the interpretation of Paragraph 51-35 (e) that a “relevant principal purpose other than an educative one can arise where there is an obtaining of outcomes for the scholarship provider from scholarship recipient activities that benefit, or can benefit, the provide in the same way an employee or contractor working for the provider would” would mean that any graduate researcher whose successful completion of their research training program results (or could result) in a new discovery or commercially viable output would consequently have their scholarship taxed, despite not necessarily directly benefiting from the discovery.

The proposed interpretation could also impact ARC and NHMRC grants, which are provided under contract from the funding agencies and often involve one or more PhD scholarships.

ACGR requests that any advice on the Income Tax Assessment Act should make it clear that enrolled research students who are recipients of (academically) competitively allocated scholarships and whose research project or workplace internship is based within an industry setting will not be financially disadvantaged. The interpretation of this Act should not discourage our best and brightest students to undertake the type of research and collaborations that the government is strongly advocating.

Impacts for International Candidates

Clarity is sought around circumstances where the candidate is clearly bonded to served his/her benefactor through employment following their graduation. With Higher Education being one of Australia’s largest exports, Australian universities have a number of arrangements with international country-based scholarship programs (CSC, VIED, LPDP, etc) where these sponsors pay stipend and/or fees for all or a proportion of the candidature. In many cases these are capacity building schemes by the funding country and international candidates are required to work in their universities on their return. Often these schemes pay for 3 years or less of a PhD program and the universities pick up the cost for the 4th year. Can clear advice be given about the taxation implications of these arrangements?



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Other Definitional Issues

Scholarship

ACGR concurs with the assumption that the selection of scholarship recipients should be based on merit or some other rational criterion but points out that not all scholarships are “open to a wide range of candidates”. Some HDR scholarships are project-specific (eg ARC Linkage) and others are to support a particular cohort (ie Indigenous candidates). The new Research Training Program Guidelines specifically allow for a higher education provider to give priority to a class of students such as Indigenous students, low socioeconomic status (SES) students, students undertaking research in a particular discipline or emerging area of research strength, or students undertaking a HDR for the first time. Hence not all HDR scholarships are necessarily widely available.

Full Time Student

ACGR disputes the assertion that the specifying the number of hours worked per week is a better alternative to effective full time course load for the purposes of exemption from income tax. All universities are currently required to report the effective full time student load (EFTSL) for each enrolled student. They are not required to define nor record the actual hours worked per week. University policy frameworks and student record keeping systems are not all equipped to dictate, manage or record hours worked by the student. EFTSL metrics have been accepted by the Department of Education and Training as a key performance indicator and should be also be the primary measure for identifying full time students for scholarship taxation purposes.

For further information about this submission please contact
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