

30 January 2026

Committee Secretary  
House of Representatives Standing Committee on Social Policy and Legal Affairs  
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Canberra ACT 2600

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## **UNSW Tax and Business Advisory Clinic – Submission in response to the Standing Committee on Social Policy and Legal Affairs Inquiry into the relationship between domestic, family and sexual violence and suicide**

Thank you for the opportunity to make a submission in response to the Inquiry into the relationship between domestic, family and sexual violence and suicide.

This submission is guided by a combination of our frontline Clinical observations and our systemic research findings. Critically, we partner with the community sector (namely, financial counsellors, financial abuse specialist support, crisis support, domestic violence support, and pro-bono legal clinics) to identify and support people in severe financial distress.<sup>1</sup> Consistent with the medical literature, the majority of our clients (67%) self-report experiencing severe mental health illness, and 17 clients have been referred to us directly from Lifeline (please see **Annexure A** for some example client stories).

Given our disciplinary expertise, the focus of this submission will be Terms of References Question 1 and Question 5.

### **Recommendations**

Our key recommendations are:

- (a) Involve government agencies including the ATO to broaden the visibility of identifiable at-risk groups, and measure the extent to which DFSV victimisation contributes to suicide risk and incidence in Australia.
- (b) Resource specialist support teams within government agencies to identify and support victim-survivors. It is critical that such teams are sufficiently staffed, trauma-informed and trained in mental health first aid.
- (c) Assign victim-survivors a trauma-informed case officer as a central point of contact within the government agency. This will offer continuity of care while mitigating the re-traumatisation caused by requiring victim-survivors to retell their story.

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<sup>1</sup> Indeed, in 2019 UNSW Tax and Business Advisory Clinic pioneered a tax clinic model fully integrated into the community sector. Described as “a *godsend*” (Fiona Guthrie AM, then-CEO of Financial Counselling Australia).

- (d) Establish a cross-disciplinary team that contains members from both ASIC and the ATO to pause the issuance of Director Penalty Notices and any other enforcement action against a coerced director whilst ASIC is in the process of removing them from the ASIC register.

## Response to Terms of Reference Questions

Our response to each Consultation Question is outlined in turn below.

**Question 1: The relationship between domestic, family and sexual violence (DHSV) victimisation, and suicide, and the extent to which HSV victimisation contributes to suicide risk and incidence in Australia, including prevalence, patterns, and any identifiable at-risk groups, in order to improve understanding of the role of HSV in suicides nationally.**

While the connection between tax problems and severe mental illness may initially appear tenuous, it is well-established that financial hardship and unmanageable debt levels cause significant stress and adversely affect mental health.

A recent example of the effect of debt and debt collection practices on the mental health of vulnerable Australians is the testimonies of the witnesses from the Robodebt Royal Commission. Some witnesses before the Royal Commission spoke about how the scheme caused them anxiety, depression, distress and trauma.<sup>2</sup>

Our clinic has assisted over 300 victim-survivors of financial abuse. Many of the States of Australia have recognised the impact of financial abuse and determined that it is part of domestic abuse. For example, subsection 6A(2) of the *Crimes (Domestic and Personal Violence) Act 2007* (NSW) identifies that domestic abuse includes:

*(c) behaviour that is economically or financially abusive.*

Financial hardship is a primary tool of coercive control used by perpetrators of domestic, family and sexual violence (DHSV) in Australia to dominate, isolate, and prevent spouses from leaving. Often the way the Australian tax system is structured allows perpetrators to weaponise the system to saddle victim-survivor with debts that the perpetrator created.

It is our experience that survivors of domestic abuse who have tax debts placed in their name by the perpetrator of abuse exhibit similar feelings to the witnesses from the Robodebt Royal Commission. One of the Tax Clinic's tax agents has previously recounted having clients on 'suicide watch'.<sup>3</sup>

The main issue is that the specific impact of *tax debt* or *tax stress* on financial wellbeing, mental health and risk of suicide remains largely unknown and unmeasured. This gap must be addressed because every year in Australia, approximately 112,500 people in financial distress have a tax problem for which they are unable to access professional tax advice.<sup>4</sup> The impact of tax debt and tax stress needs quantifying, and interventions tested, so that large scale initiatives can be designed to support this cohort in collaboration with the ATO.

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<sup>2</sup> Royal Commission into the Robodebt Scheme - Report (2023), 372.

<sup>3</sup> Ziffer, D, 'Australia's tax system is an unwitting 'weapon' family violence offenders use against their victims. These people want to stop it' (19 June 2024); available at: <https://www.abc.net.au/news/2024-06-19/abusive-partners-using-tax-system-as-weapon/103990186>.

<sup>4</sup> Kayis-Kumar A; Noone J; Lim Y; Walpole M; Mackenzie G, 2022, 'Tax Accounting for Financial Wellbeing: Quantifying the Unmet need for Pro Bono Tax Advice', *Australian Tax Review*, 51, pp. 228 – 257.

For the reasons set out above, tax problems and associated financial distress represent a substantial risk factor for significant financial stress and deteriorating mental health.<sup>5</sup>

**Question 5: Opportunities to enhance prevention and early intervention efforts to reduce deaths by suicide in the context of DFSV victimisation and perpetration.**

We recommend that a novel and highly effective approach to broadening the visibility of identifiable at-risk groups, and measuring the extent to which DFSV victimisation contributes to suicide risk and incidence in Australia, involves a whole-of-government approach including government agencies such as the Australian Taxation Office (the 'ATO'), Australian Securities and Investment Commission ('ASIC'), and Services Australia.

The ATO has the opportunity to play a critical role in identifying and supporting this cohort,<sup>6</sup> which they recognise in their recently released Vulnerability Framework.<sup>7</sup> This has the potential to 'flip the script' on the highly problematic existing compliance burdens placed on people living below the poverty line who are still required to have an annual touchpoint with the ATO by lodging a non-lodgment advice (also known as a 'return not necessary'), despite being wholly reliant entirely on Centrelink for income. This becomes problematic when they do not lodge a non-lodgment advice, as being up-to-date on their income tax returns is a precondition to receiving Centrelink support.

Our frontline team regularly observe this to be an overly burdensome requirement for people living below the poverty line – who are often struggling with other challenges in their lives – including an inability to afford food and medical care for themselves or their families. Such clients are often focussed on the immediate physical requirements of themselves and dependent children – how will they support themselves, where will they sleep, what will they eat, where will the children go to school, how will they obtain work, etc. The capacity of such clients to engage with other tax and legal requirements and obligations is often extremely compromised given the other complex and pressing challenges they are navigating.

Fortunately, this nuance is already within scope of the ATO's existing compliance pyramid, conceptualised by Braithwaite and Braithwaite in 'A representation of the ATO compliance model' as including the following "BISEPS" motivational postures:<sup>8</sup>

*"On the left face of the pyramid are the motivational postures of taxpayers and/or their agents from accommodation at the bottom through capture, resistance, and at the top, disengagement. Overarching all these postures are the business, industry, sociological, economic, and psychological systems (BISEPS) that might explain why taxpayers present themselves to tax officers as they do. **The ATO Compliance Model requires staff to investigate these factors to gain insight into how they might engineer a more cooperative regulatory encounter.**"*

This is visually represented in *Figure 1* as follows:

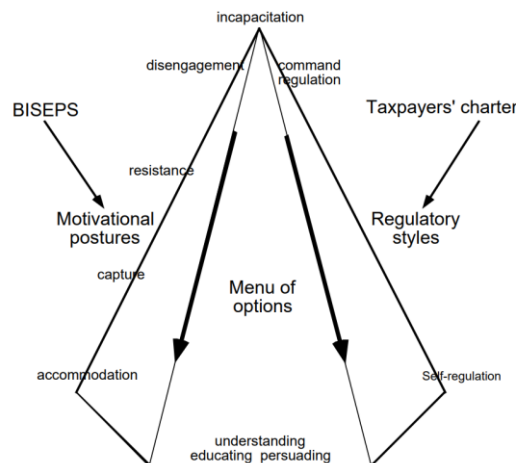
<sup>5</sup> Kayis-Kumar A; Noone J; Lim Y; Walpole M; Mackenzie G, 2022, 'Tax Accounting for Financial Wellbeing: Quantifying the Unmet need for Pro Bono Tax Advice', *Australian Tax Review*, 51, pp. 228 – 257.

<sup>6</sup> Kayis-Kumar A; Lim Y; Noone J; Walpole M; Breckenridge J; Book L, 2023, 'Identifying and supporting financially vulnerable women experiencing economic abuse: a grounded theory approach', *eJournal of Tax Research*.

<sup>7</sup> <https://www.ato.gov.au/about-ato/commitments-and-reporting/our-support-for-people-experiencing-vulnerability/our-vulnerability-framework>.

<sup>8</sup> Valerie Braithwaite and John Braithwaite, 'Managing taxation compliance: The evolution of the ATO Compliance Model', in Michael Walpole and Chris Evans (eds): *Tax Administration in the 21st Century* (Prospect Media Pty Ltd, 2001).

**Figure 1: The ATO compliance model (Braithwaite and Braithwaite, 2001)**

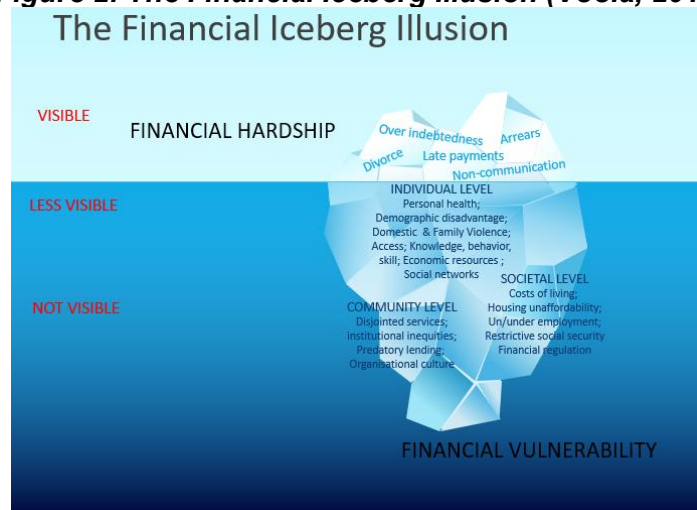


Importantly, the role of the ATO in investigating and responding to structural underpinnings of non-compliance are also within scope of the ATO's compliance model. As described by Braithwaite and Braithwaite:

*“Furthermore, systematic attention to the BISEPS over an extended period of time is believed to enhance ATO understanding of the structural underpinnings of non-compliance and provide the necessary intelligence for its early prevention.”*

A continual process of gauging and adapting to these “structural underpinnings of non-compliance” is vital to maintaining trust and confidence in the ATO and protecting the ATO from reputational harm. Specifically, in the context of financial hardship and financial vulnerability, these structural underpinnings of non-compliance can be visually represented in the Financial Iceberg Illusion (Figure 2):

**Figure 2: The Financial Iceberg Illusion (Voola, 2019)**



The Financial Iceberg Illusion visually represents the most prominent surface level indicators of financial hardship are over-indebtedness, late payments of bills, arrears backing up for months, non-response to communications from creditors.<sup>9</sup> However, these are only the tip of much larger problems – that is, the

<sup>9</sup> Archana Voola, 'Tracking the Financial Icebergs in Australia' (Power to Persuade blog, 12 August 2019); available at: <https://www.powertopersuade.org.au/blog/tracking-the-financial-icebergs-in-australia/12/8/2019>.

structural underpinnings and systemic issues extending beyond individual-level (including personal health, demographic disadvantage, and domestic and family violence) to community- and societal-level factors (including cost of living, housing unaffordability and un/under-employment).

In the context of tax, small businesses and financial vulnerability, these surface indicators often manifest as long-term non-lodgement of income tax returns and BAS resulting in large tax debts. When large tax debts arise alongside serious financial hardship, the challenge for the ATO becomes particularly acute; especially given the deficiencies in the design and operation of the serious hardship relief provisions. As O'Rourke et al highlight, these provisions are outdated and in urgent need of reform given both the systemic barriers and the legislative constraints hampering their effective functioning.<sup>10</sup>

### *Coerced Directorships and other Roles*

In addition, compliance requirements imposed on DFSV survivors in incidental roles assigned to them through coercive means by their perpetrators (e.g. director of a trading company, trustee of an SMSF) adds to the mental exhaustion and impacts the mental wellbeing of clients we see in the clinic. Often, clients are inundated with communication or "red letters" from the ATO warning of imminent legal or recovery action for serious tax non-compliance across multiple roles they hold, multiple years and multiple breaches. Without a dedicated trauma informed team within the ATO to discuss with, this communication becomes overwhelming and clients are having to manage compliance issues across multiple fronts adding to their sense of helplessness and worsening mental state. In addition, traversing different government departments e.g. ATO for SMSF administration, ASIC for company and director registrations, Services Australia for benefits, adds to the complexity.

This complexity could be mitigated by the establishment of a cross-disciplinary team that assists vulnerable taxpayers to navigate complex issues such as coerced directorships. An example of how this might work in practice is to establish a team that includes team members from ASIC and the ATO. Where a coerced director has applied to be removed from the ASIC register, the ATO could pause Director Penalty Notices and any other enforcement action against that director whilst ASIC is in the process of removing them from the ASIC register,

### **Closing Remarks**

Thank you for the opportunity to provide feedback on the Inquiry. The Inquiry presents an important step in recognising the critically important and underexplored connections between financial distress, domestic abuse and suicide risk in Australia.

We would be pleased to provide further consultation to the Standing Committee in respect of the Inquiry.

If you would like to discuss this submission further, please contact Professor Ann Kayis-Kumar at [a.kayis@unsw.edu.au](mailto:a.kayis@unsw.edu.au).

Yours faithfully,

UNSW Tax and Business Advisory Clinic

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<sup>10</sup> See further: Kevin O'Rourke, Ann Kayis-Kumar and Michael Walpole, 'Serious Hardship Relief: In Need of a Serious Rethink?' (2021) 43(1) *The Sydney Law Review* 1-42.



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# Annexure A – Client Case Studies

Please note: All names have been changed.



Melanie is a mother of five who was in a previous abusive relationship. She had started her own business as she needed to support herself and her children. She attended the Clinic as she had a number of years of outstanding tax returns and was in financial distress which meant that she could not afford the assistance of a tax agent. Also, as she had an ABN, she was ineligible to use the ATO's Tax Help program. The Clinic assisted her with the preparation of all of her outstanding income tax returns and also assisted with arranging an affordable payment plan for her resulting tax debt. Melanie was extremely grateful that the Clinic was there to assist with her tax issues and was relieved that she was up to date with her lodgements.



Amy lived in a coercively controlled relationship for some years, even following her divorce in 2010, but was finally free in 2016. Her ex-husband always controlled her tax matters and had any tax refund paid directly to him. She moved interstate to escape the perpetrator and her children moved overseas for the same reason once they were adults. Amy could not manage to find secure employment in her new location after her former long term employment with the federal government at her former workplace interstate. Amy struggled to prepare her income tax due to the strong connection with her former partner and the financial abuse and control she suffered from him. The tax clinic bought her tax affairs up to date from 2010 to current which gave Amy enormous relief from her stress and she was hopeful this would free her up mentally to seek a job opportunity.



Paula is aged 69 and is living with her parents. She has a daughter with a mental illness that manifests in violent behaviour. The daughter has perpetrated financial abuse on her parents who are now divorced and in very difficult financial circumstances. There is a current AVO held by Paula for her daughter. Paula needs to prepare 3 years of income tax returns and has a current tax debt. She will have a tax debt once the returns are assessed and she has no capacity to pay. She has caring responsibilities for her parents, she waitresses part time and receives a small age based Centrelink pension. Paula is struggling to provide information to prepare her tax returns as she acted as a contractor for some of the 3 years, has a financial connection with the daughter and is not able to cope with her own poor financial circumstances.