

## Submission to the working holiday maker tax review

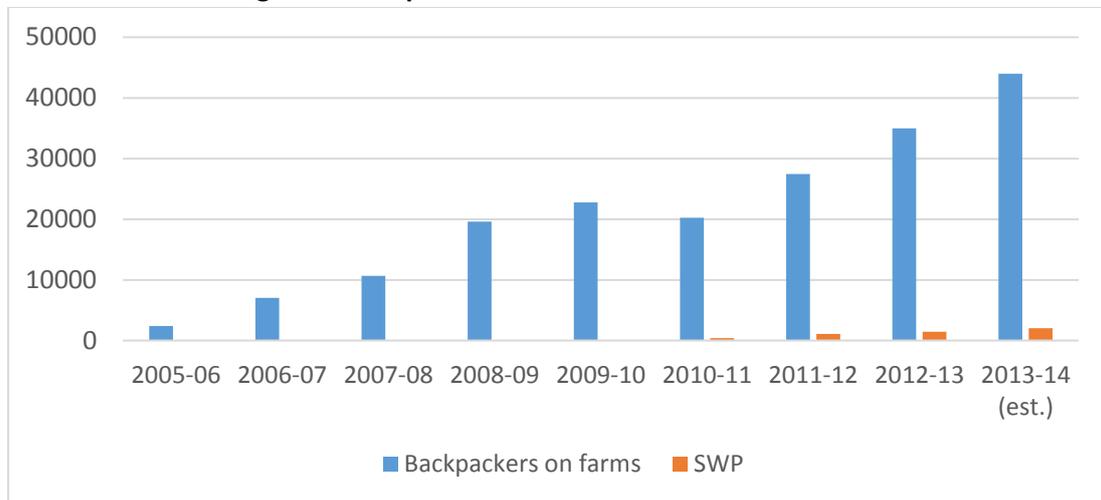
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### Introduction and context

1. This submission is informed by extensive analysis of the horticultural labour market, based on two horticultural employer surveys, including interviews with relevant peak bodies (Hay and Howes 2012; Doyle and Howes 2014).
2. **It would be a mistake to examine the issue of the working holiday maker (backpacker) tax in isolation from other issues pertaining to horticultural labour.** As discussed below, a reform that might look sensible in isolation can have perverse consequences and be counterproductive when all relevant circumstances are taken into account.
3. **Australia relies on backpackers to meet low-skilled labour shortages far more than any other OECD country.** According to the OECD (2015, p. 26), in 2013, the 249,000 backpackers in Australia were about half of all working holiday makers in 22 OECD countries in that year.
4. **95 per cent of backpackers come from developed countries** (Curtain et al. 2016). Backpacker programs are discriminatory in nature. A country has to be given access to Australia's backpacker program. Some countries (mainly developing i.e. poor countries) are given capped access, typically small caps under the 462 visa category. Other countries (developed i.e. rich ones) are given uncapped access under either the 417 or the 462 visa program.
5. **Tens of thousands come to Australia each year as backpackers as part of a broader immigration strategy.** According to the Productivity Commission (2015, p. 302), "from 1991 to 2014, around 18 per cent of working holiday makers applied for and were granted permanent residence."
6. **Backpackers are the most important source of labour for the horticultural sector.** Hay and Howes (2012), in their nationwide survey of horticultural employers, found that 73 per cent of growers report that backpackers are their main source of labour. Doyle and Howes (2014), in a second survey of horticultural employers, found that 46 per cent of growers reported that backpackers are their main source. While there is significant variation between these two sources, both are in agreement that backpackers are by far the single largest source of horticultural labour in Australia.
7. **The number of backpackers on Australian farms has grown dramatically over the last decade.** Figure 1 over page illustrates this point. It is based on the number of backpackers who apply for a second-year visa, and makes the conservative assumption that 90 per cent of those who do apply have undertaken their requisite three months of work on a farm. (The choices are between working on a farm, or in mining or construction, and over 90 per cent work on a farm – see Productivity Commission 2016, p. 300.) Note that the numbers shown in Figure 1 are an underestimate because not all backpackers who work on a farm will apply

for a second-year visa. Figure 1 shows that the number of backpackers working on farms has increased from about 3,000 a decade ago to over 40,000 today. Figure 1 also shows the very small numbers by comparison working in horticulture under the Seasonal Worker Program (SWP) which is restricted to the Pacific Islands and Timor Leste.

**Figure 1. Backpackers and SWP workers on Australia's farms**



Source: Australian government immigration statistics.

8. **It is undesirable that Australia continue to rely in a significant way on backpackers as a major source of labour supply for agriculture.** Other countries, such as the United States, Canada and New Zealand, source their horticultural labour requirements primarily from developing countries, whether Central America (in the case of the US), the Caribbean (Canada) or the Pacific (New Zealand).
9. **There has been a slight reduction in the number of backpackers coming to Australia in recent years, and in applications for second year visas.** The number of applications lodged fell from 231,685 in 2013-14 to 219,123 in 2014-15. There was a further slight reduction in the six months to the end of 2015 by 2.2 per cent over the corresponding period 12 months earlier (DIBP, 2015). There has also been a slight fall in the number of applicants for second year visas. However, even in the six months to December 2015, the number was 19,320, suggesting a total of about 40,000 for the full year.
10. **It is possible that one reason for the recent slight reduction in numbers is that so many backpackers have headed to Australia that it has become difficult from them to find a job.** Evidence for that comes [from this interview](#) with a backpacker (“There’s definitely an overload of backpackers...”) and [this one](#) with a manager from an employment services company (“There’s a lot of people out there. Demand, especially for the working holiday visa extension is large. So the environment now is fairly competitive. Certainly at the moment we would have an excess number of people contacting our call center looking for work than the jobs that we could place them into.”)
11. **Even if there is an increase in the tax rate, it is likely that Australia will remain attractive as a place for backpackers to visit and work, and unlikely that there would be a significant drop in the numbers seeking to work in horticulture.** First, backpacker wages are set by the minimum wage. According to the OECD, Australia has the fourth highest minimum wage in

the world before tax, and the highest after tax (OECD, 2015b). Note also that horticultural employers are required to pay an additional 25 per cent to casual workers which their backpackers typically are. This is not a benefit available in many other countries; for example, it does not apply in New Zealand. Second, from earlier numbers we know that about 20 per cent of backpackers want to stay in Australia. They are the ones who will likely get a second-year visa as part of an immigration strategy, and therefore work in horticulture. So horticulture is doubly protected.

### **Public policy principles and reforms**

12. **The issue of what tax rate should be paid by backpackers should not be looked at in isolation.** According to “second-best” theory, partial reforms which, if looked at on their own, might be considered welfare-improving could in fact be welfare-worsening once a broader range of considerations is taken into account. Changes in the tax rates paid by backpackers should be undertaken in the context of a broader analysis of the labour market into which their services are provided.
13. **Two public policy principles could usefully guide reforms in this area: policy coherence and a level playing field.** Policy coherence is the principle that policies should not undermine each other, but rather work together. The level playing field is the principle that competing economic agents should, as far as possible, compete under the same rules.
14. **Policy coherence demands that the current incentives to funnel backpackers into horticulture should be abandoned.** The current configuration of the backpacker program directly undermines the government’s Seasonal Worker Program (SWP). It makes no sense that backpackers, who are allowed to take **any** job in the economy, should be encouraged to compete with Pacific Island seasonal workers, who are allowed **only** to work in a very limited number of sectors, mainly horticulture. The second-year visa for backpackers was introduced in 2006 when the government was not prepared to contemplate a Seasonal Worker Program. Now that the SWP has been introduced and has bipartisan support, the second year visa for agricultural work should be removed. The backpacker visa, which is basically a visa available to developed countries, should not be used to source our low-skill needs. Ideally, the second-year visa should be phased out. Alternatively, the requirement for getting a second year visa could be extended to any regional work, rather than only work in agriculture, mining and construction. This would allow for work in hospitality and tourism, for example.
15. **Applying the principle of a level playing field would entail making the employment conditions of seasonal workers and backpackers as similar as possible.** At the moment, the playing field is heavily tilted in favour of backpackers, which is why they so outcompete seasonal workers (Figure 1). It is not possible to make the conditions between the two groups identical given the differences between them. For example, it would not be feasible to make employers responsible for the accommodation of backpackers or their travel to or within Australia. To this extent, the playing field will still be tilted in favour of backpackers and against seasonal workers. Nevertheless, several measures could be taken which would substantially even the playing field.

- a. **Same tax rate applied to both groups.** Seasonal workers are taxed at the rate of 15 per cent. The same tax rate could be applied to backpackers.
- b. **Market testing.** Either the market testing requirement should be dropped for seasonal workers or applied to backpackers. Since it is unlikely that the market testing requirement would be dropped for the SWP, we recommend that it be applied to backpackers.
- c. **Registration of employers.** Either the requirement of employer registration should be dropped for the SWP, or it should be applied for the employment of backpackers. Since it is unlikely that the requirement be dropped for the SWP, it should be implemented for backpackers. This would apply both to farmers who employed seasonal workers directly and to labour hire companies who hired them for agricultural work. A complementary or alternative reform in this same direction, and one which would reduce the problem of horticultural worker exploitation, would be to require all labour-hire companies to be licensed.

## Conclusion

16. **While there is a case for setting the backpacker tax at a rate below the 32.5 per cent proposed, such a reduction should only take place in the context of broader reforms to the backpacker program to ensure policy coherence and, as far as possible, a level playing field with seasonal workers.** Without these broader changes, a lowering of the tax rate will only exacerbate the problems of policy incoherence and a non-level playing field, two flaws which currently plague Australian horticultural workforce policies.

## References

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