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Mr John Azarias
Department of Immigration and Border Protection
Canberra

Email: employerpolicy@border.gov.au.

Dear Mr Azarias

Thank you for this opportunity to contribute to the 2016 Review of the Temporary Skilled Migration Income Threshold (TSMIT) for the 457 visa programme.

The Terms of Reference ask this Review to consider the factors that should determine the settings, the appropriate base level, the indexation and the re-introduction of regional concessions for TSMIT.

Ai Group notes that the TSMIT is a relatively recent policy instrument. It was introduced in 2009 to replace Minimum Salary Levels for new 457 visa holders. It was initially set at \$45,220 in 2009, based on the Minimum Salary Level used in the 457 programme at that time. Regional concessions were also removed, creating a single national TSMIT rate. The actual level for the TSMIT was based on the seasonally adjusted average of Average Weekly Ordinary Time Earnings (AWOTE) for all employees produced by the ABS. The TSMIT was to be indexed annually, in accordance with increases in the average weekly earnings published by the ABS. The TSMIT was last increased on 1 July 2013, when it was set at \$53,900.

In 2014, the Independent Review into Integrity in the Subclass 457 Programme (the 457 Integrity Review) recommended that the TSMIT be retained without regional concessions, and be frozen at \$53,900 until it is reviewed within two years. This recommendation was implemented. The Minister for Immigration and Border Protection used his discretion not to index the TSMIT in 2014. This decision is now due for review.

Ai Group would like to offer the following observations on the options currently being considered by this Review for setting the appropriate base level, indexation and regional concessions for the TSMIT:

- The TSMIT operates as an absolute minimum, in addition to market-based salary testing for 457 visa applications. The established market rate for each occupation applies, even if it is higher. This means the TSMIT only has a practical impact for occupations with national market rates that are at or below the TSMIT.
- ABS data show that average wages (AWOTE, rather than minimum wages) in Nov 2014 (the time that the TSMIT was frozen) were around the TSMIT level only in the accommodation and food services and retail trade industries. These two industries had an AWOTE of \$53,934 and \$55,307 respectively, which implies that half or more of workers in these industries earned less than the AWOTE amount. All other industries had significantly higher average wages (AWOTE) than the TSMIT amount (see *Ai Group submission to the Inquiry into the impact of Australia's temporary work visa programs*, 2015, p. 18, attached). Department of Immigration data indicate that base salaries for 457 visa holders in these two industries averaged \$58,300 in accommodation and food services and \$79,100 in retail trade in 2014. This indicates that on average, wages for 457 visa holders in these two lower-paid industries are already significantly higher than the average for all employees in these industries. It suggests that the current TSMIT, combined with market-testing of wage rates, is, on average, effective in placing a stronger and higher floor under the wages of 457 visa holders in these two low-wage industries.
- If the TSMIT is to be indexed again, then its primary function as a minimum wage benchmark must be the foremost consideration. If it is indexed regularly against AWOTE or AWE or other national average income measures (as it was from 2009 to 2013), then the increases run the risk of reflecting income changes that have occurred at the medium and upper ends of the Australian wage range, rather than at the lower end. During periods when average wages are rising faster than minimum wages (for example, due to rising skills or to structural changes in industry and occupation composition), automated and regular indexation could cause the TSMIT to rise at a faster rate than other minimum wage benchmarks currently operating in Australia.
- The primary function of the TSMIT as a minimum wage benchmark suggests that if it is to be automatically indexed, then one source of indexation information for this Review to consider could be the Fair Work Commission's (FWC) annual review of the national minimum wage. The annual FWC decision on the national

minimum wage provides a floor for minimum rates contained in many industrial awards. It could be considered an appropriate source of information for any regular changes to the TSMIT also.

- In looking at alternatives to automatic indexation (against the AWOTE, AWE the national minimum wage or living cost indexes) this Review could consider recommending a regular independent review of the TSMIT on an annual or biannual timetable. This would help to ensure that the TSMIT's primary function as a minimum wage benchmark is maintained and that it is not inadvertently reflecting changes to average or higher wages.
- In considering the re-introduction of regional concessions to the TSMIT (as applied from 2002 to 2009), the Review should be mindful of the large gaps that persist between average wage rates across Australian states and regions and between the public and private sectors. Significant differences in living costs (and especially housing costs) across states and regions are also relevant. The latest available AWOTE data for November 2015 indicate there is a gap of almost \$400 per week between private sector AWOTE in Western Australia and private sector AWOTE in Tasmania, while national public sector AWOTE is \$150 more than national AWOTE for the private sector. Annual growth in average wages (measured by WPI or AWOTE or AWE) also varies considerably and persistently across states and across sectors (see Table 1 below).

Table 1: ABS wage measures, by sector and state

	Wage price index (WPI), Q4 2015		Full time adult average weekly ordinary time earnings (AWOTE), November 2015
	q/q %	y/y %	\$ per week
Private sector (seas. adj.)	0.5	2.0	1,468.40
Public sector (seas. adj.)	0.5	2.6	1,617.40
All sectors (seas. adj.)	0.5	2.2	1,500.50
<i>Original data (not adjusted):</i>	<i>Private sector</i>		
New South Wales	0.3	2.1	1,527.30
Victoria	0.5	2.3	1,424.80
Queensland	0.5	1.8	1,446.70
South Australia	0.7	2.1	1,376.00
Western Australia	0.5	1.5	1,708.70
Tasmania	0.1	1.5	1,318.70

For further information, please find attached two recent submissions from Ai Group about the 457 visa programme.

RECOMMENDATION 1

The primary function of the TSMIT as a minimum wage benchmark must be maintained. Any indexation arrangements for the TSMIT (as applied for example, from 2009 to 2013) or regular reviews of the TSMIT must be designed to support this primary function of the TSMIT as a minimum wage benchmark. The review must also take into account the additional market testing of wage rates that is required for all 457 visa applications.

RECOMMENDATION 2

In considering the re-introduction of regional concessions to the TSMIT (as applied for example, from 2002 to 2009), the Review should be mindful of the large gaps that persist between average wage rates across Australian states and regions and between the public and private sectors. Significant differences in living costs (and especially housing costs) across states and regions should also be noted by the Review.

Yours sincerely

Julie Toth
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