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**To: Mr John Azarias**

**Expert Reviewer**

**Review of the 457 visa Temporary Skilled Migration Income  
Threshold (TSMIT)**

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## Executive summary

This submission concerns the appropriate 457 TSMIT for ICT occupations in the 457 visa program. ICT means 'Information, Communications and Telecommunications'.

The 457 TSMIT should once again be set at a much higher rate for ICT occupations than for 457 occupations generally, just as it was for 5 and a half years between February 2004 and September 2009 under both Coalition and Labor governments.

The 457 TSMIT for ICT occupations should be increased to **\$75,000** per year in 2016 and indexed annually in line with wage movements for ICT professionals in Australia. The **\$75,000** figure equates to:

- 39% (\$21,100) more than the current TSMIT of \$53,900, maintaining broadly the same 457 ICT salary differential (37% above the standard 457 MSL) which applied as bipartisan policy from May 2006 to September 2009.
- \$21,000 more than the median annual salary of computer science graduates under age 25 in their first full-time job in Australia in 2015 (\$54,000), as measured by the Graduate Careers Australia (GCA) Survey.
- \$20,260 *less than* the average total cash earnings of all Software and applications programmers (ANZSCO 2613) paid as employees (full-time and part-time) at adult rates in Australia, as measured by the ABS in May 2014 (\$95,098). The average earnings figure for *full-time* employees will be higher, but the ABS was not able to provide data in time for this review.
- Approximately the 30<sup>th</sup> percentile of estimated annual total cash earnings of all full-time professionals (both ICT and others) paid at adult rates, as measured by the ABS in May 2014; and almost certainly an even lower percentile of ICT professionals' earnings (ABS data again not yet available).

The effect of the proposed new 457 salary floor of \$75,000 for ICT workers is that between 56-60% of all 457 visa grants in the two key ICT occupations examined in this submission would not be eligible, based on the nominated base salaries profile of 457 visa grants in 2014-15 and 2015-16 (to 31/12/2015).

### Justification

It is highly unlikely that the sharp increase in domestic ICT training the Government wants to see could occur while it is simultaneously encouraging a very high intake of ICT professionals on 457 visas on relatively low salaries. This situation has led to a deterioration in the availability of entry level jobs for Australian ICT graduates.

Analysis of unpublished DIBP data on 457 nominated base salaries in 457 visa grants in two key ICT occupations- ICT business and systems analysts (ANZSCO 2611) and Software and applications programmers (ANZSCO 2613) - shows that in 2014-15:

- 23% had nominated base salaries of \$53,900 or less, that is, at or below the 457 TSMIT and the median starting salary of computer science graduates under age 25 in their first full-time job in Australia in 2015 (\$54,000), as measured by the Graduate Careers Australia (GCA) Survey.

- 39% had nominated base salaries at \$61,920 or less, ie at or below the higher 457 ICT MSL applying in September 2009 when it was dropped by the Rudd Labor government.
- 84% had nominated base salaries at \$95,100 or less - ie below the *average* (mean) total cash earnings of all Software and Applications programmers (ANZSCO 2613), who were non-managerial employees (full-time and part-time) paid at the adult rate in May 2014, as measured by the ABS Employee Earnings and Hours Survey.

These low 457 nominated base salaries are overwhelming due to the extremely low-wage profile of Indian nationals who comprise 78% of all 457 visa grants in these two ICT occupations.

The same principle of higher 457 TSMITs could apply to other 457 occupations and sectors where this is necessary to achieve major public policy objectives, eg STEM occupations generally or possibly some trade-level occupations.

## 1 Introduction

The terms of reference for this 457 TSMIT review include to ‘determine whether a single income threshold should apply to all occupations, sectors and circumstances, such as regional locations’.<sup>1</sup>

This submission sets out the case for again establishing a higher 457 TSMIT for ICT occupations in the 457 visa program. ICT means ‘Information, Communications and Telecommunications’, and ICT occupations are mainly at the professional level requiring at least a bachelor degree (see also below).

The current 457 TSMIT is \$53,900 for all 457-eligible occupations in the non-concessional stream, including ICT occupations. TSMIT has not been increased since July 2013.

The 457 visa Temporary Skilled Migration Income Threshold (TSMIT) is intended to serve several public policy purposes.

The 457 TSMIT is meant to be a ‘salary floor’ in the 457 visa program, ‘...commensurate with the salary paid to skilled workers in Australia’ (TSMIT Discussion Paper, p5), and provide a high enough level of income to provide a reasonable standard of living for 457 visa holders and their families who do not have access to social security and other benefits enjoyed by Australian residents (citizens and permanent residents).

In the pre-TSMIT 457 regime, another public policy purpose of the TSMIT’s predecessor – the 457 Minimum Salary Level (MSL) - was to protect jobs for both Australian ICT graduates and experienced ICT workers.

The analysis in this submission shows that a higher 457 TSMIT is once again needed for this same purpose, especially to protect entry-level jobs for Australian ICT graduates. The higher 457 ICT TSMIT will probably do little to protect higher-paid experienced ICT workers from unfair competition.

But without this higher 457 ICT TSMIT, plus other measures outside the scope of the TSMIT review, there will be few ICT jobs available for the large numbers of young Australians once again being encouraged to undertake degree-level computer science and related courses.

## 2 The higher 457 MSL for ICT occupations 2004-09

Before the 457 TSMIT was introduced in September 2009, the predecessor to the 457 TSMIT was the 457 MSL or ‘Minimum Salary Level’. For 5 and a half years between February 2004 and September 2009 under both Coalition and Labor governments, there was a much higher 457 MSL rate for ICT occupations than for general 457 occupations, as shown in table 1.

ICT occupations for the 457 MSL visa were defined as seven ASCO occupations, mostly Computing professionals (around 90%) but also some manager, engineering and technician-level occupations.<sup>2</sup>

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<sup>1</sup> DIBP on behalf of external TSMIT reviewer, *Discussion Paper, 457 Programme – Temporary Skilled Migration Income Threshold (TSMIT)*, p8.

<sup>2</sup> IT managers (ASCO 1224–11), Electronics engineer (2125–13), Computing professionals (ASCO 2231), Electrical or electronic engineering technologist (ASCO 2128–15), Electronic engineering associate (ASCO 3124–11), Electronic engineering technicians (ASCO 3124–13), and Computer support technicians (ASCO 3294–11).

The higher 457 MSL for ICT occupations was first set at 24% above the standard 457 MSL when it was introduced in February 2004 and the differential was progressively increased to 37% above the standard MSL in May 2006. In September 2009 when it was abandoned, the ICT MSL was \$61,920 or \$16,700 more than the standard 457 MSL of \$45,220 per year.

**Table 1 457 ICT occupations Minimum Salary Level (MSL) history 2004 to 2009**

	ICT occupations	Non-ICT	Difference	
			\$	%
11 Feb 2004 to 08 April 2005	\$46,620	\$37,720	\$8,900	23.6
09 April 2005 to 02 May 2006	\$50,775	\$39,100	\$11,675	29.9
03 May 2006 to 30 June 2006	\$57,300	\$41,850	\$15,450	36.9
01 July 2006 to 31 July 2008	\$57,300	\$41,850	\$15,450	36.9
01 August 2008 to 30 June 2009	\$59,480	\$43,440	\$16,040	36.9
1 July 2009 to September 2009	\$61,920	\$45,220	\$16,700	36.9
<b>TSMIT</b>				
September 2009	\$45,220	\$45,220	\$0	0.0

Source: DIAC/Deegan Review, *Visa Subclass 457 Integrity Review, Issues Paper #1*, July 2008; DIBP (various).

**Table 2 Computing professionals (ASCO 2231) and Professionals (ASCO Major group 2), Full-time Non-managerial adult employees, : Deciles and Quartiles of total cash earnings (a), June 2006 Australia**

Deciles and Quartiles	Weekly		Annual	
	ASCO 2231 Computing Professionals	ASCO 2 All Professionals	ASCO 2231 Computing Professionals	ASCO 2 All Professionals
	\$	\$	\$	\$
10th percentile	812.00	769.00	42,305	40,065
20th percentile	966.00	912.00	50,329	47,515
25th percentile (1st quartile)	1,045.00	961.00	54,445	50,068
<b>30th percentile</b>	<b>1,100.00</b>	<b>1,009.00</b>	<b>57,310</b>	<b>52,569</b>
40th percentile	1,198.00	1,111.00	62,416	57,883
50th percentile (median) (2nd quartile)	1,336.00	1,202.00	69,606	62,624
60th percentile	1,440.00	1,276.00	75,024	66,480
70th percentile	1,600.00	1,374.00	83,360	71,585
75th percentile (3rd quartile)	1,654.00	1,442.00	86,173	75,128
80th percentile	1,805.00	1,542.00	94,041	80,338
90th percentile	2,119.00	1,870.00	110,400	97,427
Average total earnings \$	1,429.00	1,285.20	74,451	66,959

Source: ABS Survey of Employees Earnings and Hours, May 2006 (published and unpublished data).

(a) Comprises regular wages and salaries in cash, including amounts salary sacrificed.

The 457 ICT MSL that applied from May 2006 to August 2008 (\$57,300) was equal to the 30<sup>th</sup> percentile of average total cash earnings of Computing professionals (ASCO 2231) in June 2006, for full-time non-managerial adults in Australia, as measured by the ABS Employee Earnings and Hours (EEH) Survey (\$57,310)<sup>3</sup> - table 2.

### ICT graduate salaries

The 457 ICT MSL was high relative to median starting salaries for new computer science graduates, as shown in table 3. The gap was greatest in 2007, when the ICT MSL was 33% (\$14,100) more than the median starting salary for new computer science graduates. When the ICT MSL was replaced by the lower 457 TSMIT in 2009, the 457 effective minimum for ICT went from 25% (\$12,320) more than the median salary for new computer science graduates to nearly 10% (\$4,780) less.

The gap has closed between 2009 and 2015. The 457 TSMIT is now practically the same as the median starting salary for new computer science graduates (\$53,900 vs \$54,000).

**Table 3 457 ICT MSL/TSMIT and median starting salary of computer science graduates (a), 2003 to 2015**

	Computer science graduates	457 ICT MSL/ TSMIT	Difference	
			No	%
	\$	\$	\$	%
2003	38,000			
2004	38,000	46,620	8,620	22.7
2005	39,900	50,775	10,875	27.3
2006	42,000	50,775	8,775	20.9
2007	43,200	57,300	14,100	32.6
2008	46,500	57,300	10,800	23.2
2009 (b)	49,600	59,480	9,880	19.9
2009 (b)	49,600	61,920	12,320	24.8
2010	50,000	45,220	-4,780	-9.6
2011	51,000	47,480	-3,520	-6.9
2012	52,500	49,330	-3,170	-6.0
2013	53,000	51,400	-1,600	-3.0
2014	55,000	53,900	-1,100	-2.0
2015	54,000	53,900	-100	-0.2

Source: GradStats, 1999-2015; table 1; DIBP (various).

(a) Under age 25 and in their first full-time job.

(b) 457 ICT MSL was increased to \$61,920 from 1 July 2009 to 14 September 2009, then replaced by 457 TSMIT (\$45,220) for rest of 2009-10.

<sup>3</sup> This biennial ABS survey is employer-based and not subject to the reliability concerns affecting the household-based ABS Labour Force Survey in recent years.

## 2.1 Rationale for higher 457 ICT MSL

The higher 457 MSL salary rate for ICT occupations was designed to protect jobs for new and recent Australian ICT graduates who lacked ICT experience, and also experienced ICT workers. Officially it was set at a level of market salaries for *experienced* ICT professionals.

Announcing the higher ICT 457 MSL in 2004, the Immigration Minister said “there will be a new separate minimum salary of \$46,620 a year for Information and Communication Technology professionals, *reflecting the typical salary for experienced professionals in that industry*” (emphasis added).

By definition, setting the ICT MSL at salary rates for experienced ICT professionals protected jobs for inexperienced graduates and other ICT workers on lower market salaries.

In 2008, the department offered a rationale for the 457 ICT MSL which downplayed its role in protecting jobs for Australian ICT graduates. The 2008 Issues Paper prepared for the Deegan 457 ‘integrity review’ suggested ‘the introduction, from February 2004, of a separate and much higher MSL for Information and Communications Technology (ICT) occupations’ was solely or mainly to protect skilled Australian ICT workers who had lost jobs following the dot-com crash:

This followed the dot-com crash in 2001 and was based on a concern that the crash led to a significant number of Australians with ICT skills losing employment. The higher MSL was designed to increase the likelihood of Australians being considered by employers first but without preventing employers from accessing overseas employees to fill gaps in higher-end ICT positions. It should be noted that in some parts of the ICT industry skill gaps have remained and indeed, are now growing. This is substantiated by the large number of ICT occupations that are currently on the national shortage list produced by DEEWR. The ICT MSL from 1 August 2008 will be \$59 480. <sup>4</sup>

### How the 457 ICT MSL was set

The basis for determining the ICT MSL was never made publicly clear.

In May 2006, the Immigration Minister’s media release on the latest change to the ICT MSL said that ‘this level was set following consultation with the ICT industry.’ In an answer to a Question on Notice in Senate Estimates, DIAC said the MSL for ICT professionals ‘is based on a series of annual salary surveys commissioned for the ICT industry and is set in consultation with the Minister for Employment and Workplace Relations.’ <sup>5</sup>

ICT salary surveys were conducted by, among others, the ICT industry lobby group the Australian Information Industry Association (AIIA) but the findings were not freely and publicly available.

Other surveys, such as the annual salary survey conducted by the Australian Computer Society (ACS), provided data on salaries of ICT workers (who were ACS members) by years of experience.

Whatever salary surveys and method were actually used to set the ICT MSL, the end result was that the 2006 457 ICT MSL rate was equal to the 30<sup>th</sup> percentile of average total cash earnings of Computing professionals (ASCO 2231) in June 2006 as measured by the ABS, as shown in the previous section. These earnings were for full-time non-managerial adult employees in Australia.

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<sup>4</sup> DIAC/ Deegan, *Subclass 457 Integrity Review Final report*, November 2008, p25.

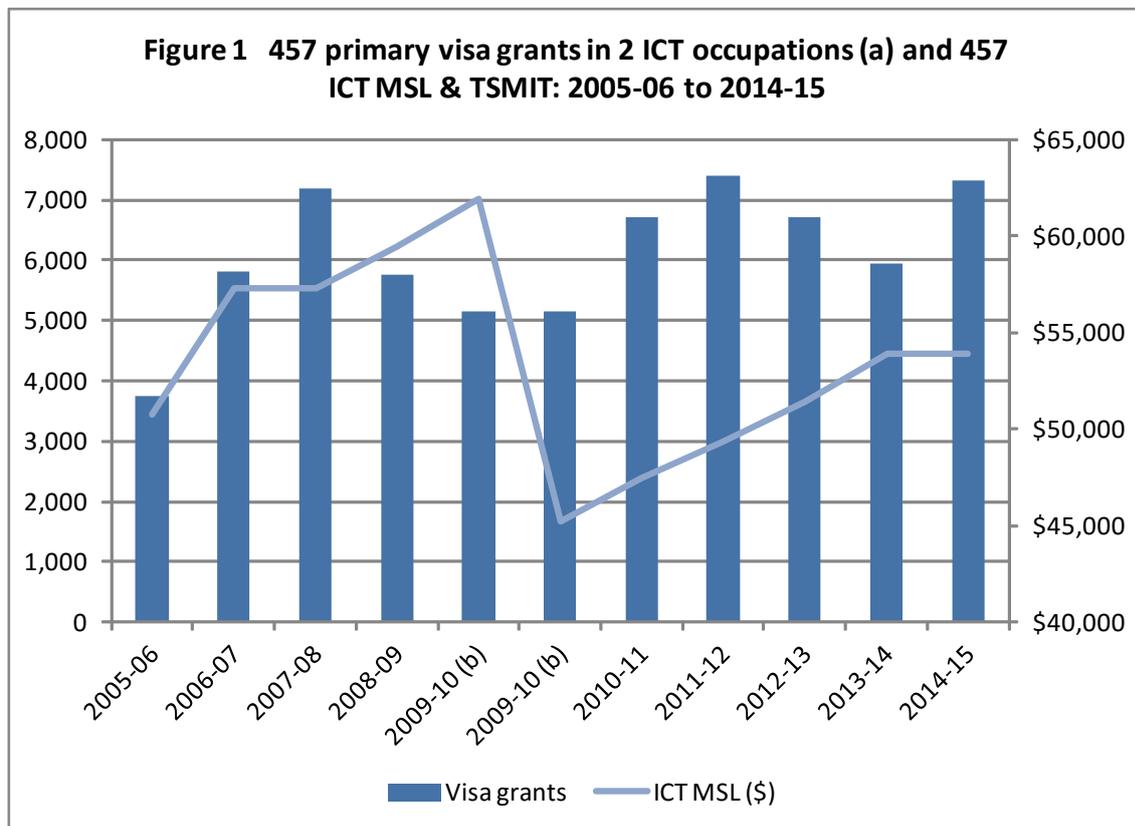
<sup>5</sup> DIMA, Answer to Question on Notice no 124, Supplementary Budget Senate Estimates, 30 October 2006.

## 2.2 Impact of higher ICT MSL 2004-09 and TSMIT

The evidence is mixed and affected by the GFC which commenced in September 2008. Figure 1 shows for the period 2005-06<sup>6</sup> to 2014-15, 457 primary visa grants in two key ICT occupations (ICT Business and Systems Analysts and Software and applications programmers), movements in the ICT MSL and TSMIT post- September 2009.

The chart shows that in the pre-GFC period (2005-06 to 2007-08), 457 visa grants actually rose as the ICT MSL was increased from \$50,775 to \$57,300. Grants then declined by 20% in 2008-09 coinciding with a further increase in ICT MSL to \$59,480 but also the onset of the GFC. In 2008-09 grants fell by a further 11% as the GFC washed through, the ICT MSL peaked at \$61,920 for the first quarter of 2009-10, before it was reduced to \$45,220 for the last three quarters of 2009-10.

Following the reduction in the effective ICT minimum 457 salary, annual 457 visa grants in these two ICT occupations grew rapidly to a new peak in 2011-12 (7,401).



Source: DIBP 457 visa grants quarterly pivot tables, 31 December 2015; table 1; DIBP (various).

(a) ICT Business and Systems Analysts (ANZSCO 2611) and Software and Applications Programmers (ANZSCO 2613).

(b) 457 ICT MSL was increased to \$61,920 from 1 July 2009 to 14 September 2009, then replaced by 457 TSMIT (\$45,220) for rest of 2009-10.

<sup>6</sup> DIBP visa grants data by ANZSCO occupation is not available for 2004-05 and prior years.

## **Interpretation**

The fact that 457 visa grants in these occupations actually rose in the pre-GFC years suggests that the 'price signal' in the ICT MSL was not set high enough to give employers enough incentive to favour lower-cost Australian ICT graduates over 457 ICT workers. Alternatively it might just point to a very strong job market during minerals resource investment boom.

## **Australian ICT graduates**

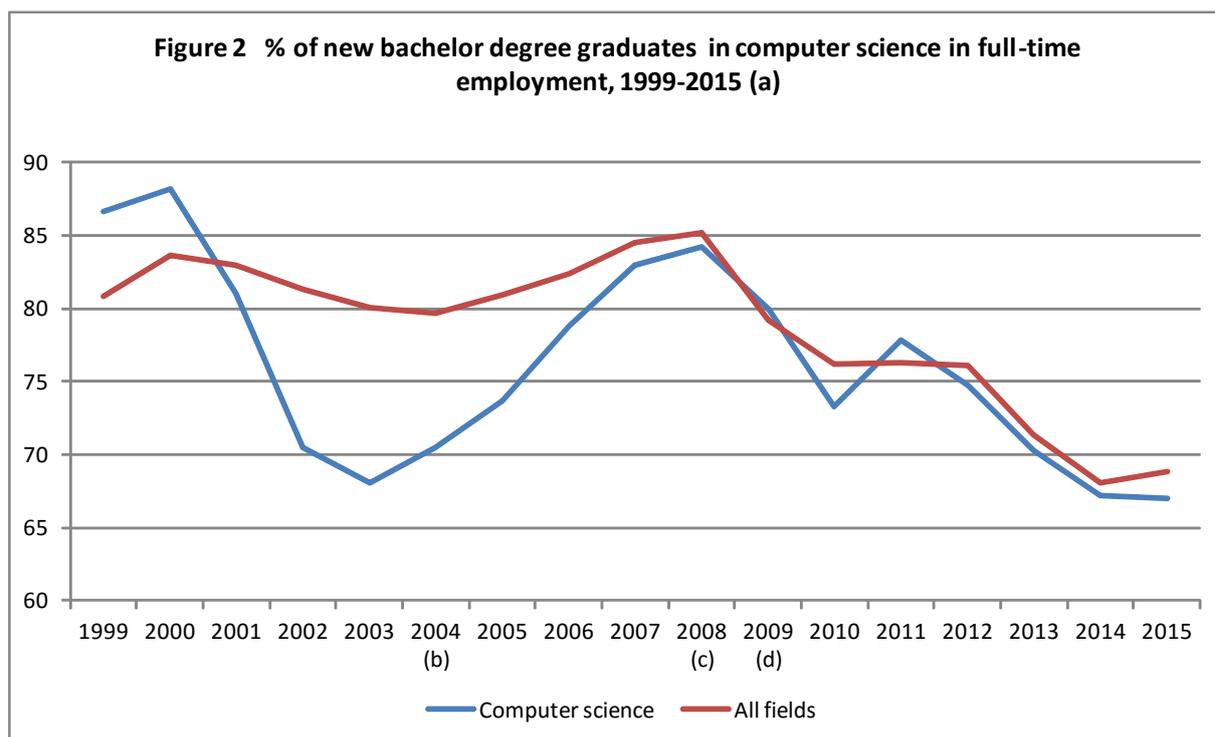
Figure 2 might suggest that the higher 457 ICT MSL in the pre-GFC years was beneficial for Australian ICT graduate jobs, but all graduates were doing well at this time. The proportion of new computer science graduates in full-time employment after graduating rose from a low of 68% in 2003 (in the post dot com era) to a high of 84% in 2008 just before the GFC struck in September 2008.

The TSMIT becomes much more relevant to the prospects for Australian graduates as the mineral resources boom subsides after 2012. If the Australian government wishes to encourage a large and innovative Australian trained stock of ICT professionals – as it now indicates with its Innovation initiatives – it will have to implement policy which encourages more locals to take on ICT training. This means as a minimum a career path through entry level ICT jobs.

From 2009 (when the lower 457 TSMIT was introduced) to 2015, there is a downward trend in the proportion of new computer science graduates in full-time work of any kind (not just ICT jobs).<sup>7</sup> As figure 2 shows, this same downward trend post-2009 applies also to new graduates in all fields of study, not just computer science graduates.

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<sup>7</sup> 'In 2011, only 37 per cent of ICT graduates aged 20 to 29 years were employed as ICT Professionals, and a further 51 per cent were employed in other occupations.' The Australian Workplace Productivity Agency, *ICT workforce study, Meeting Australia's future ICT skills needs*, July 2013.



Source: GradStats 1999-2015.

(a) Surveyed 4 months after completing their qualification.

(b) Higher 457 ICT Minimum Salary Level (MSL) introduced in February 2004, and progressively increased.

(c) GFC September 2008.

(d) Higher 457 ICT MSL replaced by lower 457 TSMIT, September 2009.

### 2.3 Why the higher 457 ICT MSL was replaced by TSMIT in 2009

In September 2009, the higher 457 ICT MSL (\$61,920) was replaced by the much lower 457 TSMIT (\$45,220). This was part of the so-called 457 ‘reforms’ implemented by the Rudd Labor government, being the government’s response to the 2008 report of the 457 Integrity Review (the Deegan report).

For ICT occupations, the immediate impact was that the salary floor for 457 visa nominations was lowered by \$16,700 per year.

As far as we can tell, there was no government explanation for its decision to abandon the higher 457 ICT MSL at this time.

The decision was the result of ICT industry pressure, both public and private, some of which is set out in section 6 below. A lower TSMIT for ICT occupations meant access to cheaper foreign ICT labour, particularly from India. This served the competitive interests of Indian ICT services companies enabling them to lower their own wage costs, those of their Australian business clients, and other Australian-based firms using Indian-based ICT professionals.

As well as introducing the TSMIT across the entire 457 program, the 2009 457 ‘reforms’ introduced the ‘457 market salary rate’ requirement. This was to be the safeguard against 457 labour undercutting Australian wages and conditions.

The '457 market salary rate' was defined in such a way that it did not mean the 'going market rate', which is the common meaning of the term. Instead, the '457 market salary rate' means the wages and conditions of an Australian resident worker doing the same job *at the employer's workplace* that the 457 visa worker will be doing.

If there is no such Australian worker at the sponsoring employer's workplace, the '457 market salary rate' means the salary that an Australian resident worker *would* be getting if there was such a worker.

Based on the analysis presented below, since 2009 the combination of a lower 457 salary floor (TSMIT) for ICT occupations and the unusual definition of '457 market salary rate' have allowed very large numbers of low-wage ICT workers into Australia on 457 visas.

## 2.4 457 nominated base salaries below TSMIT

457 rules allow visa grants to be approved where the nominated base salary is below the 457 TSMIT (\$53,900 from 1/7/13), if the TSMIT level is met after including all 'guaranteed annual earnings' which may include (among other things) the agreed monetary value of certain employer-provided non-cash items (eg accommodation, private health insurance, laptops).

This quirk explains how some 457 visa grants for ICT professionals are approved, even though the nominated base salary is below the dollar value of the official TSMIT rate of pay, as shown in sections following.

## 3 Proposed 457 ICT TSMIT

### 3.1 TSMIT level

The 457 TSMIT for ICT occupations should be increased to **\$75,000** per year in 2016 and indexed annually in line with wage movements for ICT professionals in Australia. The **\$75,000** figure equates to:

- 39% (\$21,100) more than the current TSMIT of \$53,900, maintaining broadly the same 457 ICT salary differential (37% above the standard 457 MSL) which applied as bipartisan policy from May 2006 to September 2009.
- \$21,000 more than the median annual salary of computer science graduates under age 25 in their first full-time job in Australia in 2015 (\$54,000), as measured by the Graduate Careers Australia (GCA) Survey.
- \$20,260 *less than* the average total cash earnings of all Software and applications programmers (ANZSCO 2613) paid as employees (full-time and part-time) at adult rates in Australia, as measured by the ABS in May 2014 (\$95,098). The earnings figure for *full-time* employees will be higher, but the ABS was not able to provide data in time for this review.
- Approximately the 30<sup>th</sup> percentile of estimated annual total cash earnings of all full-time professionals paid at adult rates, as measured by the ABS in May 2014.

The effect of the proposed new 457 salary floor of \$75,000 for ICT workers is that between 56-60% of all 457 visa grants in the two key ICT occupations examined in this submission would not be eligible, based on the nominated base salaries profile of 457 visa grants in 2014-15 and 2015-16 (to 31/12/2015) – see Appendix 1, table A1.

## 3.2 Indexation

The proposed 457 ICT TSMIT should be indexed annually in line with wage movements for ICT professionals in Australia. The indexation method used should be made public including the data on which it is based, if that data is not freely available in the public domain.

The biennial ABS Employee Earnings and Hours (EEH) Survey (Cat 6306.0) is probably the best basis for indexation. It is a national, independent and credible employer-based survey. Every two years, results are published in December for the survey conducted in May of that year. The most suitable indicator is probably movements in average total cash earnings for the main ICT occupations, at the 4-digit ANZSCO level.

In the alternate year when the ABS survey is not conducted, the ICT TSMIT could be increased in line with wage movements for All Professionals as measured by other ABS surveys.

## 3.3 Defining 'ICT occupations'

The proposed 457 ICT TSMIT should apply to all professional-level ICT occupations, all ICT managerial occupations and possibly technician-level ICT occupations. This would be consistent with the 2004-09 arrangements applying for the 457 ICT MSL.

# 4 The case for a higher 457 ICT TSMIT

## 4.1 457 TSMIT is low relative to ICT salaries

The 457 TSMIT is extremely low relative to ICT employee salaries in Australia. Table 4 compares the TSMIT to average annual earnings in a range of ANZSCO 3-digit and 4-digit ICT occupations, as measured by the ABS in May 2014.

Average earnings of full-time non-managerial employees paid at the adult rate in all the professional-level ICT occupations shown are between \$45,200 to \$52,600 more than the current 457 TSMIT, or 82% to 98% higher.

The 457 TSMIT is extremely low relative to the salaries distribution of all employees paid at the adult rate in all professional occupations combined. As shown in table A2 in Appendix 1, the current TSMIT of \$53,900 is set at a level below the 10<sup>th</sup> or *bottom* percentile of full-time non-managerial earnings of all professionals in Australia paid at the adult rate in May 2014 (\$58,560).

Even in the only non-professional ICT occupation – ANZSCO 3131 ICT support technicians – average annual earnings are \$13,200 or 20% more than the current 457 TSMIT. See table 4.

**Table 4 Selected ICT occupations (ANZSCO 3- and 4-digit): Non-managerial employees paid at the adult rate, average annual total cash earnings (a), May 2014**

ICT occupation	Average	457	Difference	
	Annual	TSMIT		
	Total cash	(b)	% of TSMIT	
	Earnings (a)		\$	%
	\$	\$	\$	%
<b><i>FULL-TIME Non-Managerial employees</i></b>				
224 Information and organisation professionals	99,115	53,900	45,215	84
261 Business and systems analysts, and programmers	98,073	53,900	44,173	82
262 Database and systems administrators, and ICT security specialists	98,735	53,900	44,835	83
263 ICT network and support professionals	106,539	53,900	52,639	98
313 ICT and telecommunications technicians	75,712	53,900	21,812	40
<b><i>ALL Non-Managerial employees (full-time and part-time)</i></b>				
2249 Other information and organisation professional	81,490	53,900	27,590	34
2252 ICT sales professionals	145,197	53,900	91,297	63
2611 ICT business and systems analysts	108,634	53,900	54,734	50
2612 Multimedia specialists and web developers	64,208	53,900	10,308	16
2613 Software and applications programmers	95,098	53,900	41,198	43
2621 Database and systems administrators, and ICT security specialists	95,171	53,900	41,271	43
2631 Computer network professionals	99,798	53,900	45,898	46
2632 ICT support and test engineers	98,422	53,900	44,522	45
3131 ICT support technicians	67,084	53,900	13,184	20

Source: ABS Employee Earnings and Hours, May 2014 Cat 6306.0.

(a) Regular wages and salaries in cash (including amounts salary sacrificed, where it is the choice of the employee to forgo part of wages and salaries in cash in return for goods and services), for total hours worked, ie ordinary hours plus overtime hours (if any).

(b) From June 2013 to present (February 2015).

## 5 Analysis of nominated base salaries in 457 ICT occupations

### 5.1 Overview

Our analysis of 457 nominated base salaries in ICT occupations shows that the current low 457 TSMIT is allowing the program to be used as an extremely cheap foreign labour program. As we have argued elsewhere,<sup>8</sup> this is blocking entry-level job opportunities for Australian ICT graduates.

As indicated above, job outcomes for Australian ICT graduates have deteriorated since 2009. According to the Department of Employment there is currently an oversupply of ICT professionals in the Australian labour market.

Our analysis focussed on 457 nominated base salaries<sup>9</sup> in two key ICT occupations: ICT business and systems analysts (ANZSCO 2611) and Software and applications programmers (ANZSCO 2613).

In 2014-15, there were 7,329 457 primary visa grants in these two occupations, representing 14.3% of total 457 primary visa grants in all occupations.

The analysis is presented in figure 3 and table 5 and shows that of all 457 visa grants in these two key ICT occupations in 2014-15:

- 23% had nominated base salaries of \$53,900 or less, that is, at or below the 457 TSMIT and the median starting salary computer science graduates under age 25 in their first full-time job in Australia in 2015 (\$54,000), as measured by the Graduate Careers Australia (GCA) Survey.
- 39% had nominated base salaries at \$61,920 or less, ie at or below the higher 457 ICT MSL applying in September 2009 when it was dropped by the Rudd Labor government.
- 84% had nominated base salaries at \$95,100 or less - ie below the *average* (mean) total cash earnings of all Software and Applications programmers (ANZSCO 2613), who were non-managerial employees (full-time and part-time) paid at the adult rate in May 2014, as measured by the ABS Employee Earnings and Hours Survey.

(See section 2.4 for explanation of how 457 visas can be approved with nominated base salaries 'below TSMIT'.)

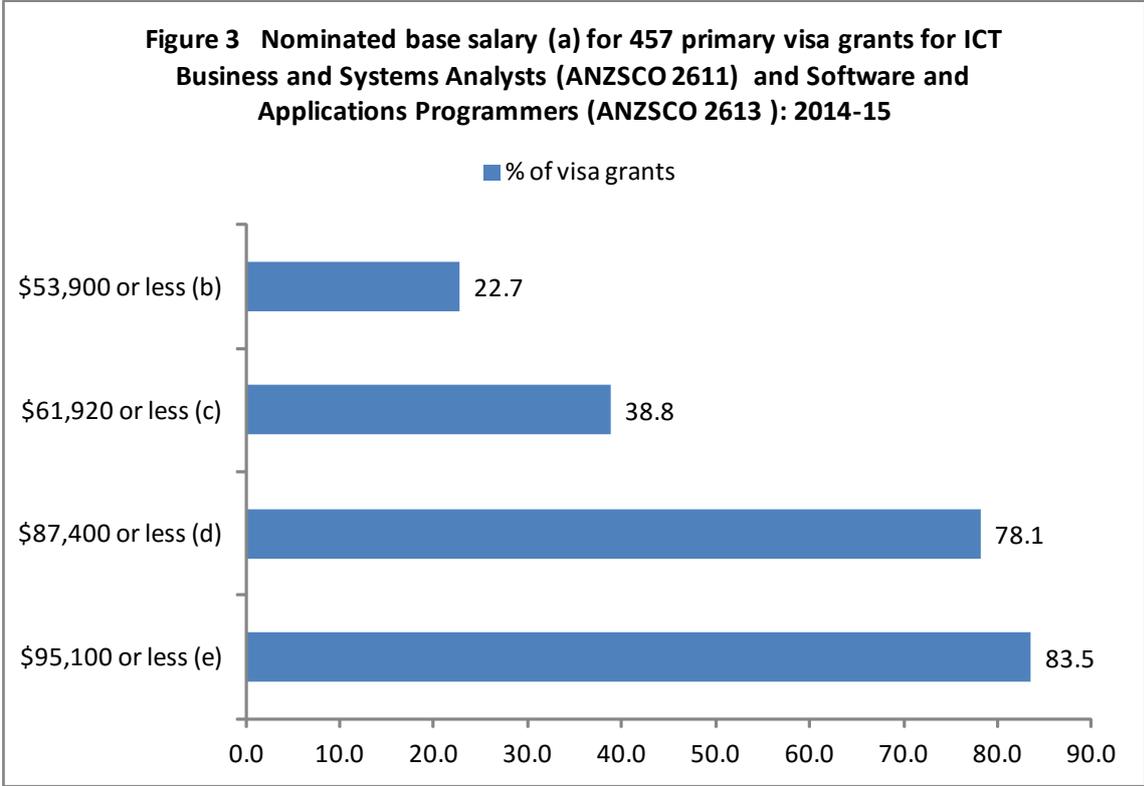
As table 5 shows, these low 457 nominated base salaries are overwhelming due to the extremely low-wage profile of Indian nationals who comprise 78% of all 457 visa grants in these two ICT occupations.

Some 28% of all Indian nationals in these ICT occupations had 457 nominated base salaries of \$53,900 or less, nearly one half (46%) at \$61,920 or less, the 2009 457 ICT MSL, and a staggering 92% had nominated base salaries at \$95,100 or less – ie, below the *average* (mean) earnings of all Software and Applications programmers (ANZSCO 2613) in Australia in May 2014.

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<sup>8</sup> See Bob Birrell, *Too few or perhaps too many STEM graduates*, Australian Universities' Review, vol.57, no. 2, 2015, p. 73; and Bob Kinnaird, 'Current issues in the skilled temporary subclass 457 visa', *People and Place*, vol. 14, no. 2, 2006, pp59-62.

<sup>9</sup> For DIBP definition of 'nominated base salary', see table 5, note (a). Note that the DIBP reference to a '38-hour week' may not be accurate in all cases.



Source: DIBP customised data, BE9300, March 2016; ABS Cat 6306.0, May 2014.

Notes - see table 5.

**Table 5 457 primary visa grants for ICT Business and Systems Analysts (ANZSCO 2611) and Software and Applications Programmers (ANZSCO 2613 ) by nominated base salary (a) and country of citizenship: 2014-15**

	Country of citizenship		
	India	All others	Total
<b>No</b>	5,722	1,607	7,329
<b>%</b>	78.1	21.9	100
<b>Nominated base salary (a)</b>			
\$53,900 or less (b)	1,586	77	1,663
\$61,920 or less (c)	2,620	221	2,841
\$87,400 or less (d)	5,008	719	5,727
\$95,100 or less (e)	5,282	839	6,121
	<b>%</b>	<b>%</b>	<b>%</b>
\$53,900 or less (b)	27.7	4.8	22.7
\$61,920 or less (c)	45.8	13.8	38.8
\$87,400 or less (d)	87.5	44.7	78.1
\$95,100 or less (e)	92.3	52.2	83.5

Source: DIBP customised data, BE9300, March 2016; ABS Cat 6306.0, May 2014.

(a) 'The gross annual salary based on a 38 hour week that the employer has indicated they will pay to the primary visa holder', excluding 'the value of salary packaged items, bonuses, commissions or other payments...' (DIBP *Subclass 457 quarterly report* , 31 December 2015, Definitions).

(b) \$53,900 is the 457 TSMIT as from 1 July 2013 to the present (March 2016).

(c) \$61,920 was rate of the higher 457 MSL or 'Minimum Salary Level' applying to ICT occupations in September 2009, when it was replaced by the lower 457 TSMIT (then \$45,220).

(d) \$87,424 is the median total cash earnings of full-time non-managerial employees paid at the adult rate, for all 'professionals' (ICT and others), in May 2014 (ABS Cat 6306.0).

(e) \$95,100 is the average (mean) total cash earnings of Software and Applications programmers (ANZSCO 2613), all non-managerial employees ( full-time and P/T) paid at the adult rate, in May 2014 (ABS Cat 6306.0).

## 5.2 457 nominated base salaries at or below the 2009 ICT MSL

Table 6 shows the proportion of 457 primary visa grants in the two ICT occupations with very low nominated base salaries rose considerably in the three years 2012-13 to 2014-15, with an apparent decline in the first half of 2015-16.

The growth in the proportion with nominated 457 salaries of \$53,900 or less is especially striking. In the three years to 2014-15, this group rose from only 8% to nearly 23% of all 457 visa grants. Nearly one in four 457 visas in these two professional-level ICT occupations had nominated base salaries at or below the 457 TSMIT and the median starting salary for new computer science graduates.

**Table 6 457 primary visa grants for ICT Business and Systems Analysts (ANZSCO 2611) and Software and Applications Programmers (ANZSCO 2613 ) by nominated base salary (a): 2012-13 to 2015-16 (to 31/12/15)**

Nominated base salary (a)	2012-13	2013-14	2014-15	2015-16 to 31/12/15
\$53,900 or less (b)	544	1,296	1,663	653
\$61,920 or less (c)	1,888	2,280	2,841	1,120
All others	4,281	2,380	2,825	1,533
Total	6,713	5,956	7,329	3,306
	%	%	%	%
\$53,900 or less (b)	8.1	21.8	22.7	19.8
\$61,920 or less (c)	28.1	38.3	38.8	33.9
All others	63.8	40.0	38.5	46.4
Total	100.0	100.0	100.0	100.0

Source: DIBP customised data, BE9300, March 2016; ABS Cat 6306.0, May 2014.

Notes - see table 5.

## 6 The case against a higher 457 ICT TSMIT

The 2008 Deegan report summarised the case against a higher 457 ICT MSL as follows:

The separate MSL for the ICT industry has also been criticised, Neville Roach<sup>10</sup> suggesting that ‘the separate minimum wage for ICT professionals is clearly unjustified, inequitable and bad for the Australian ICT industry, its customers and the Australian economy. It was introduced to address perceived conditions in the 2000-2003 period, conditions which no longer apply. It should be removed immediately so that the ICT industry is treated in the same way as all other industries in the economy’.

<sup>10</sup> Mr Neville Roach was formerly CEO of Fujitsu and Chair of the committee which recommended introduction of the deregulated 457 visa in 1996.

The Australian Computer Society (ACS) notes that ‘for many multinational firms, the price signal for the MSL must establish a balance between the costs of maintaining the role in Australia and relocating it to a cheaper overseas destination. So while it is important to ensure the 457 visas are not being used to displace Australian workers, it is also important to ensure that the cost imposes on 457 sponsors do not drive greater offshoring of ICT roles and functions’.

The Australian Information Industry Association supports this view, noting that ‘the unfortunate result of the current Minimum Salary Level regime is to foster the offshoring of Australian jobs because there are no appropriately skilled and experienced Australians to fill the vacancies at the current market rates’.<sup>11</sup>

The Deegan report did not provide any evidence to support any of the above claims. The DIBP did not publish submissions to the Deegan review, so it is not possible to know if any evidence was in fact provided.

What is striking about the quoted excerpts from the opponents of a higher 457 ICT MSL (and presumably TSMIT), is the total absence of any reference to the main reason for the higher ICT MSL, namely to offer some protection for Australian ICT graduates seeking entry-level jobs.

The evidence does not support Mr Roach’s claim that the ICT MSL ‘was introduced to address perceived conditions in the 2000-2003 period, conditions which no longer apply’. In 2008, Australian enrolments in degree-level ICT courses remained severely depressed<sup>12</sup>, even though job outcomes for the shrinking number of ICT graduates<sup>13</sup> had recovered. But ICT graduate job outcomes as detailed above, have since deteriorated significantly.

## 6.1 Discussion

Lowering the effective 457 ICT minimum salary through the TSMIT seems to have facilitated a very high annual inflow of ICT professionals - at or around graduate salary rates - through the 457 program. Indeed far higher than the annual completions of domestic Australian undergrads in ICT fields (Birrell op cit).

- The 7,329 457 visa grants in just two key ICT occupations examined for this submission vastly outnumbered the 5,106 domestic completions at undergraduate level in Information Technology in 2014.

This is good for the Indian service companies in that it enables them to compete for ICT contracts in Australia and facilitates the process of off-shoring the jobs in question. But it is contrary to the Australian Government’s intention to promote an increasing stock of ICT-savvy Australian professionals.

It is highly unlikely that the sharp increase in domestic ICT training the Government wants to see could occur while it is simultaneously encouraging a very high intake of ICT professionals on 457 visas on relatively low salaries. The current situation has led to a deterioration in the availability of entry level jobs for Australian graduates.

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<sup>11</sup> DIAC/Deegan, op cit., p26.

<sup>12</sup> Birrell, op cit., p. 72.

<sup>13</sup> Between 2002 to 2009, the number of Australians completing undergraduate level courses in Information Technology fell by over 50%, from 9,513 to 4,619.

This has to be changed if more young Australians are to be persuaded to take on ICT training. As the Australian Computer Society (ACS) stated in 2014, 'the ACS believes that an entry-level programmer in their early twenties from some other country is in fact displacing a job for an Australian ICT graduate'.<sup>14</sup>

## 7 Conclusion

The higher 457 ICT TSMIT proposed in this submission is a necessary condition to improve job prospects for Australian ICT graduates, but not a sufficient condition. Unless the higher 457 ICT TSMIT is accompanied by other regulatory measures (outside the scope of this present TSMIT review), 457 ICT sponsors may not change their behaviour and employ more Australian ICT graduates.

They might simply continue to employ their (currently low-paid) 457 ICT workers at the higher TSMIT, and pass the higher wage costs onto their Australian clients.

These other regulatory measures might include for example, stronger enforcement of the 457 sponsor's training obligations under the 457 legislation, so that young Australian ICT graduates are trained in the so-called 'proprietary knowledge' that young 457 ICT graduates supposedly possess.

With Australia almost certain to conclude a Free Trade Agreement (FTA) with India in 2016, it is more than likely that Australia will trade away its sovereign right to impose labour market testing to all Indian nationals in the 457 visa program<sup>15</sup>, along with the right to apply certain other 457 regulatory measures. This was the case with all three North Asian FTAs concluded by the Coalition government (Korea, Japan and China) and the Trans-Pacific Partnership (TPP) agreement.

A higher 457 ICT TSMIT will most likely remain one of the few regulatory measures available to the Australian government and Parliament, to achieve public policy purposes .

The higher 457 ICT MSL which applied between 2004 and 2009 was judged consistent with Australia's international trade obligations (which included multiple FTAs already in force) and Australia's offer in the 2005 Doha Round of WTO GATS to remove entirely 457 LMT and other regulatory measures.

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<sup>14</sup> Australian Computer Society (ACS), *Submission to Independent Review of Integrity in the subclass 457 programme*, May 2014, p5.

<sup>15</sup> The legislated 457 Labour Market Testing (LMT) obligation currently does not apply to all professional-level occupations including ICT occupations. Currently that LMT-exemption is the result of a legislative instrument made by the Immigration Minister exempting various 457 occupations on skill grounds, and which may be changed simply by the Minister issuing another instrument. An Australian commitment in an FTA not to apply LMT is a binding international obligation, which is effectively permanent and irreversible.

## Appendix 1 Detailed tables, 457 nominated base salaries etc

**Table A1 457 primary visa grants (a) for ICT Business and Systems Analysts (ANZSCO 2611) and Software and Applications Programmers (ANZSCO 2613 ) by nominated base salary (b): 2012-13 to 2015-16 (to 31/12/15)**

Nominated base salary (b)	2012-13	2013-14	2014-15	2015-16 to 31/12/15
\$1 to \$40,000 (c)	307	247	225	105
\$40,001 to \$53,900 (c)	237	1,049	1,438	548
\$53,901 to \$61,920	1,344	984	1,178	467
\$61,921 to \$70,180	1,908	998	1,080	476
\$70,181 to \$87,400	1,694	1,510	1,806	861
\$87,401 to \$95,100	341	288	394	228
\$95,101 to \$108,200	281	332	408	237
\$108,201 to \$138,900	429	373	572	277
\$138,901 or more	172	174	227	107
<b>Grand Total</b>	<b>6,713</b>	<b>5,956</b>	<b>7,329</b>	<b>3,306</b>
<b>\$75,000 or less (estimated) (d)</b>	<b>4,270</b>	<b>3,701</b>	<b>4,427</b>	<b>1,837</b>
	%	%	%	%
\$1 to \$40,000 (c)	4.6	4.1	3.1	3.2
\$40,001 to \$53,900 (c)	3.5	17.6	19.6	16.6
\$53,901 to \$61,920	20.0	16.5	16.1	14.1
\$61,921 to \$70,180	28.4	16.8	14.7	14.4
\$70,181 to \$87,400	25.2	25.4	24.6	26.0
\$87,401 to \$95,100	5.1	4.8	5.4	6.9
\$95,101 to \$108,200	4.2	5.6	5.6	7.2
\$108,201 to \$138,900	6.4	6.3	7.8	8.4
\$138,901 or more	2.6	2.9	3.1	3.2
<b>Grand Total</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>
<b>\$75,000 or less (estimated) (d)</b>	<b>63.6</b>	<b>62.1</b>	<b>60.4</b>	<b>55.6</b>

Source: DIBP customised data, BE9300, March 2016.

- (a) Includes a small number of grants under 'concessional' 457 Labour Agreements (<100 each full financial year). Concessions can be granted on 457 salary or other requirements, eg English skills.
- (b) 'The gross annual salary based on a 38 hour week that the employer has indicated they will pay to the primary visa holder', excluding 'the value of salary packaged items, bonuses, commissions or other payments...' (DIBP *Subclass 457 quarterly report* , 31 December 2015, Definitions). See also text.
- (c) 457 rules allow visa grants to be approved where the nominated base salary is below the 457 TSMIT (\$53,900 from 1/7/13), if the TSMIT level is met after including the agreed monetary value of certain employer-provided non-cash items (eg accomodation, private health insurance, laptops).
- (c) Assumes 28% of visa grants in the range \$70,181 to \$87,400 had nominated base salaries of \$70,181 to \$75,000, which is 28% of this salary range (\$4,819 out of \$17,219).

**Table A2 Full-time Non-managerial employees paid at the adult rate, Deciles and Quartiles of total cash earnings (a) –ANZSCO major group 'Professionals', May 2014**

<b>ANZSCO Professionals</b>	<b>Total cash earnings</b>	
	<b>Weekly</b>	<b>Annual</b>
<b>Persons</b>	<b>\$</b>	<b>\$</b>
10th Percentile	1,124	58,560
20th Percentile	1,291	67,261
25th Percentile (1st quartile)	1,347	70,179
30th Percentile	1,420	73,982
40th Percentile	1,535	79,974
50th Percentile (median) (2nd quartile)	1,678	87,424
60th Percentile	1,796	93,572
70th Percentile	1,980	103,158
75th Percentile (3rd quartile)	2,077	108,212
80th Percentile	2,212	115,245
90th Percentile	2,666	138,899
<b>Average total cash earnings</b>	<b>1,828.40</b>	<b>95,260</b>

Source: ABS Employee Earnings and Hours, May 2014 Cat 6306.0, table 8.

(a) See note (b), table A1.