



4 March 2016

John Azarias  
Expert Reviewer  
Employer Policy Section  
Department of Immigration and Border Protection  
[employerpolicy@border.gov.au](mailto:employerpolicy@border.gov.au)

Dear Mr Azarias,

The National Association of Software and Service Companies (**NASSCOM**) is grateful for your invitation to provide a response to the *Discussion Paper: 457 Programme - Temporary Skilled Migration Income Threshold (TSMIT) (Discussion Paper)*.

NASSCOM welcomes policy settings that facilitate the use of the 457 visa program by the Information and Communications Technology (**ICT**) and Business Process Outsourcing (**BPO**) industry in Australia without adversely affecting the integrity of the program.

In the view of our members, the 457 visa program is vital to their global business model and is a relatively stable and effective program for the assignment of skilled professionals to Australia to undertake ICT and BPO project work.

## **1. About NASSCOM**

NASSCOM is an industry association founded among companies operating in the Indian ICT and BPO industry. Established in 1988, NASSCOM is a non-profit organisation focussed on facilitating business and trade in software and services and encouraging advancement of research in software technology.

NASSCOM has grown to become a global body consisting of over 1500 member organisations. Of these, over 250 are global companies from the USA, UK, EU, Japan and China. NASSCOM's member companies are primarily in the business of software development, software services, software products, IT-enabled/ BPO services and e-commerce. NASSCOM has been and continues to be a proponent of global free trade with India.

## **2. How NASSCOM member companies use the 457 program**

NASSCOM companies typically use a combined offshore/onshore model to deliver ICT solutions for their clients. This entails the assignment to Australia of skilled ICT professionals from overseas.

NASSCOM companies are primarily contracted by Australian businesses to develop and install cutting-edge ICT solutions in accordance with customer business needs, budget and urgency. ICT work is usually project-based and the ICT supplier will be contracted to provide a specified outcome within a specified time-frame. Clients will generally expect a project to commence within one or two months of the appointment of the contractor. This means that many ICT positions are short-term contractual roles that need to be filled quickly, in turn requiring a fast moving flexible workforce that can be stood down until the next project commences or relocated to another country for another project.

The nature of ICT work thus requires a talented and highly skilled workforce. India continues to produce high numbers of very skilled ICT professionals and has greater capacity to provide pools of workers with well-developed proprietary expertise. It is for this reason that most large ICT projects undertaken by our members in Australia will involve skilled professionals assigned to Australia from overseas, and principally from India.

Accordingly, the 457 program is vital to our members' business model and its cost-effective operation is critical to the reliable delivery of skilled ICT professionals into client projects in industries across Australia.

### 3. Submissions

The way our members use the 457 visa program to sponsor highly skilled professionals and managers means that in its current form, TSMIT does not present a particular challenge to our member organisations. Our concerns regarding TSMIT are:

- how future changes to the TSMIT calculation are made; and
- ensuring that TSMIT is not differentiated by occupation or industry.

#### 3.1. Salary Rates in the ICT and BPO Sectors

The occupations available for nomination in 457 programme enumerated on the Consolidated Skilled Occupations List include 31 ICT- and BPO-related occupations. Current market salary information for the ICT and BPO industry demonstrates that salaries in those occupations are consistently higher than TSMIT. For example, in its 2014 Remuneration Survey Summary Report, the Australian Computer Society found that

[i]n real terms, the salaries of the majority of ICT professionals have increased above the general cost of living and general wages growth in the Australian economy.<sup>1</sup>

By way of example, the table below sets out the current salary survey information for an Analyst Programmer of three years' experience, located in Sydney:

Award <sup>2</sup>	\$58,879
ABS <sup>3</sup>	\$75,925
Job Outlook <sup>4</sup>	\$83,720
HAYS <sup>5</sup>	\$75,000 - \$100,000
ACS <sup>6</sup>	\$90,000 – \$130,000

Projected salary levels in our industry are likely to remain higher than TSMIT (and indeed, any similar statistical average salary calculation) for the foreseeable future. Given the highly skilled nature of the roles our members nominate, this is perhaps not surprising. ICT and BPO skills are in high demand in Australia and yet there is a consistent shortfall in available talent in the local labour market. In its January 2016 report on the future of work in Australia, the Commonwealth Science and Industrial Research Organisation (**CSIRO**) singles out skills development in science, technology,

<sup>1</sup> Australian Computer Society, 2014, *Remuneration Survey Summary Report*, <http://www.professionalsaustralia.org.au/wp-content/uploads/2014/06/2014-ACS-Summary-Report.pdf>

<sup>2</sup> Professional Employees Award 2010, Level 3: Professional. [http://awardviewer.fwo.gov.au/award/show/MA000065#P356\\_39195](http://awardviewer.fwo.gov.au/award/show/MA000065#P356_39195)

<sup>3</sup> Australian Bureau of Statistics, 2014, *6306.0 - Employee Earnings and Hours, Australia, May 2014*. <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/6306.0May%202014?OpenDocument>

<sup>4</sup> Department of Employment, 2015, *Job Outlook*. <http://joboutlook.gov.au/occupation.aspx?code=2613&search=&Tab=stats&graph=EA>

<sup>5</sup> Hays, 2015, *the 2015 Hays Salary Guide: Salary and Recruiting Trend*, p. 113. <https://www.hays.com.au/salary-guide/> Salary level is taken for Senior Developer as the closest category to Analyst Programmer.

<sup>6</sup> Australian Computer Society, 2014, above.

engineering and mathematics (**STEM**) as the area of most pressing demand, particularly in ICT and BPO as part of the ongoing digitisation of the world of work.<sup>7</sup> These include innovations in which our members are directly involved in providing to Australian clients, such as cloud computing, Software as a Service and the Internet of Things.<sup>8</sup> Despite the significance of the digital disruption to business and industry, Australia still does not have sufficient output of graduates to meet this burgeoning demand. In contrast to most of the developed world, participation rates in STEM education in Australia declined by 11% in the ten years to 2012. Recent studies by NSW Parliament<sup>9</sup> and independent think tanks<sup>10</sup> echo these forecasts about the future of the economy, the workforce, and the sustained STEM skills shortfall.

Given current and future salary rates in our industry, TSMIT in its current form does not present an issue to our membership, and it is largely redundant to consideration of nomination applications lodged by our members. Therefore, our primary concerns in this review are regarding:

- how future changes to the TSMIT calculation are made; and
- ensuring that TSMIT is not differentiated by occupation or industry.

### Calculation of TSMIT

The Discussion Paper explains that

[t]he TSMIT is a salary threshold used by the 457 programme as an indicator that an occupation is skilled and to ensure that a visa holder has reasonable means of support whilst in Australia...It was based on a seasonally adjusted average of Average Weekly Ordinary Time Earnings... TSMIT has been indexed annually in accordance with increases in the average weekly earnings published by the Australian Bureau of Statistics, report 6302.0, to keep pace with the cost of living.<sup>11</sup>

It is important to recognise that 457 visa holders may be subject to higher costs of living in Australia than Australian citizens and permanent residents, both when moving to Australia and in accessing social services. 457 visa holders are generally ineligible for income support or taxation benefits, and may be required to meet other costs during their period of stay, such as costs associated with private health insurance coverage or public school fees. They are also prohibited from secondary employment and may not have other income sources within their immediate family or broader family or social networks to rely on in times of financial stress.<sup>12</sup>

---

<sup>7</sup> CSIRO, 2016, *Tomorrow's Digitally Enabled Workforce*, <http://www.csiro.au/en/Research/D61/Areas/Data-for-decisions/Strategic-Foresight/Tomorrows-Digitally-Enabled-Workforce>, p. 50.

<sup>8</sup> CSIRO, above, at pp31-36.

<sup>9</sup> Parliament of New South Wales, 2015, *Briefing Paper: Future Workforce Trends in NSW: Emerging Technologies and Their Potential Impact*. NSW Parliamentary Service briefing Paper 13/2015. [https://www.parliament.nsw.gov.au/prod/parlment/publications.nsf/0/7CA82213117D710ACA257F1700094B57/\\$File/Future%20workforce%20trends%20Briefing%20Paper.pdf](https://www.parliament.nsw.gov.au/prod/parlment/publications.nsf/0/7CA82213117D710ACA257F1700094B57/$File/Future%20workforce%20trends%20Briefing%20Paper.pdf)

<sup>10</sup> Committee for Economic Development of Australia, 2015, *Australia's Future Workforce?* <http://www.ceda.com.au/research-and-policy/policy-priorities/workforce>

<sup>11</sup> Department of Immigration and Border Protection, 2015, *Discussion Paper: 457 Programme - Temporary Skilled Migration Income Threshold (TSMIT)*, p. 4.

<sup>12</sup> Department of Immigration and Border Protection, 2015, above, p. 5.

Assuming TSMIT was set at \$45,220 in 2009 with those cost of living factors already taken into account, it stands to reason that TSMIT increases by a certain percentage of indexation each year would automatically build in that desired margin. Accordingly, from its higher starting point, TSMIT should have increased at a rate consistent with the rate of overall wages growth, to maintain the same premium over and above average wages.

An analysis of TSMIT indexation against wages data shows that TSMIT increases have outpaced actual wages growth in Australia since its introduction. The table presented in Appendix A compares the TSMIT for each year with the expected growth of a starting salary of \$45,220, adjusted by the annual average wage increase in the private sector since 2009 reported by the Australian Bureau of Statistics report 6345.0.

TSMIT underwent a 5% increase only nine months after its introduction, despite wages growth year on year of 3.8%. Since then, the increase in TSMIT has been consistently ahead of wages growth. Only by the moratorium on further increases to TSMIT since 2013<sup>13</sup> has wages growth finally caught up with TSMIT in dollar terms. Had the campaign to raise TSMIT to \$57,000 in 2015 been successful,<sup>14</sup> TSMIT growth would have again moved well ahead of overall wages growth.

Our concern is that TSMIT is being used as an artificial 'market signal' imposing a premium for accessing the 457 visa programme, when doing so is already significantly more expensive than recruiting an Australian. The figures above suggest that TSMIT is not only about a temporary visa holders' cost of living; it is also about making the use of the 457 visa programme more prohibitive for business. There is very little difference between this type of mechanism and the imposition of a tariff on imported goods; and we suggest that it has similar undesirable effects to international trade and the Australian economy.

In our submission, future increases in TSMIT may be important to continuing to meet the policy imperative that visa holders in lower-paid occupations outside of the ICT and BPO industry are able to afford the cost of living in Australia. To ensure that this is achieved without undesirable policy outcomes beyond that imperative, the calculation of such increases should be transparent and take into account information about market salary rates from a range of different sources and which is as up-to-date as possible.

---

<sup>13</sup> This was a recommendation adopted by the Commonwealth Government in the 2014 review of the 457 programme. See Azarias, J. et al, 2014, *Robust New Foundations: A Streamline, Transparent and Responsive System for the 457 Programme*, p. 57.  
<https://www.border.gov.au/ReportsandPublications/Documents/reviews-and-inquiries/streamlined-responsive-457-programme.pdf>

<sup>14</sup> See the policy agenda set by the Australian Labour Party in response to the ratification of the China-Australia Free Trade Agreement. <http://www.alp.org.au/chinaftasafeguards>

### 3.2 Differentiated TSMIT

Given the operation of the market salary rate requirement, we see no reason for or value in (re-) introducing differentiated TSMIT rates for regional areas, nor for the nature and skill level of the nominated role. The requirement to make a favourable comparison with going market rates particular to the nominated position is a far more effective way of ensuring that a person receives fair and reasonable compensation for their work, automatically adjusted for factors such as location, occupation and industry.

At the time that the TSMIT and market salary rates requirements were introduced in September 2009, they replaced the previous Minimum Salary Level (MSL) requirement. Between 2004 and 2009, there were different MSLs applicable to different circumstances as set out in the table below:

15

Category	Minimum Salary Level
Metro areas: non-ICT	\$41,850
Metro area: ICT	\$57,300
Regional area: non-ICT	\$37,665
Regional area: ICT	\$51,570
English language exemption	\$75,000

The different MSL for the ICT sector was introduced in February 2004 in response to the dot-com collapse of 2001, and a desire to 'reserve' places in the Australian labour market for new Australian ICT graduates.<sup>16</sup> Submissions to the 2008 Integrity Review of the 457 Visa Programme strongly suggested that the introduction of differentiated MSL was a flawed and hyperbolic approach to a perceived problem. To that review, Neville Roach AM commented that

[t]he 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>17</sup>

<sup>15</sup> Minister for Immigration and Citizenship, *Minimum Salary Levels and Occupations for the Temporary Business Long Stay Visa*. FRLI F2009L02150 (IMMI 09/048), 24 June 2009.

<sup>16</sup> Deegan, B., 2008, *Visa Subclass 457 Integrity Review: Final Report*, p. 25.  
<https://www.border.gov.au/Trav/Work/Work/Subclass-457-Integrity-Review>

<sup>17</sup> Deegan, B., 2008, above, p. 26.

The Australian Computer Society was critical of the differentiated rate, asserting 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 imposts on 457 sponsors do not drive greater offshoring of ICT roles and functions.<sup>18</sup>

The Australian Information Industry Association also supported that view:

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>19</sup>

Of particular concern to our members was the fact that the differentiated MSL applied despite any relevance to the way that our members utilise the 457 programme to effect intra-corporate transfers of highly skilled professionals with the appropriate proprietary knowledge to deliver project based work in Australia.

The danger in (re-)introducing differentiated TSMIT rates is that this criterion can then be used for political or policy ends which are beyond the stated policy scope of ensuring a livable wage. For example, the introduction of a higher MSL limited to ICT occupations was little more than a protectionist measure which had little, if anything, to do with the benchmarking of salary rates. As has been noted by peak industry bodies and expert commentators in the quoted sections above, any measure which stymies international trade by hindering our members' ability to appropriately resource projects for Australian clients, is not only detrimental to our members' business models but also to Australia's economic development.

NASSCOM thanks the Expert Reviewer for the opportunity to make these submissions and would welcome an opportunity to meet and discuss these matters further.

We look forward to hearing from you.

Yours faithfully,



**Sameer Arora**  
**General Manager, Australia**

---

<sup>18</sup> Deegan, B., 2008, above, p. 26.

<sup>19</sup> Deegan, B., 2008, above, p. 26.

## Appendix A

### Comparison of TSMIT and Average Wages Growth, 2009 - 2016

Financial Year	Wage Growth %	Adjusted Salary	TSMIT Growth %	Adjusted TSMIT
TSMIT introduced Sep 2009		\$45,220		\$45,220
2009-2010 <sup>20</sup>	3.8	46,938	5.0	47,480
2010-2011 <sup>21</sup>	3.7	48,675	3.9	49,330
2011-2012 <sup>22</sup>	3.4	50,330	4.2	51,400
2012-2013 <sup>23</sup>	2.5	51,588	4.9	53,900
2013-2014 <sup>24</sup>	2.5	52,878	NIL	53,900
2014-2015 <sup>25</sup>	2.0	53,936	NIL	53,900
*2015-2016 <sup>26</sup>	2.0	55,015	5.75	57,000

<sup>20</sup> Australian Bureau of Statistics, 2010, Labour Price Index, <http://www.abs.gov.au/ausstats/abs@.nsf/ProductsbyReleaseDate/484A3CA2EFF90BAACA25789300173340?OpenDocument>.

<sup>21</sup> Australian Bureau of Statistics, 2011, Labour Price Index, <http://www.abs.gov.au/AUSSTATS/abs@.nsf/allprimarymainfeatures/6206728D8CE976E8CA2579FF0011B52F?opendocument>

<sup>22</sup> Australian Bureau of Statistics, 2012, Wages Price Index, <http://www.abs.gov.au/AUSSTATS/abs@.nsf/allprimarymainfeatures/312733DED4871CC3CA257B6B001AACC?OpenDocument>

<sup>23</sup> Australian Bureau of Statistics, 2013, Wages Price Index, <http://www.abs.gov.au/AUSSTATS/abs@.nsf/ProductsbyReleaseDate/8A97BF715219DA96CA257CDE00168316?OpenDocument>

<sup>24</sup> Australian Bureau of Statistics, 2014, Wages Price Index, [http://www.ausstats.abs.gov.au/ausstats/meisubs.nsf/0/219368396558ECD5CA257DF6000E1091/\\$File/63450\\_dec%202014.pdf](http://www.ausstats.abs.gov.au/ausstats/meisubs.nsf/0/219368396558ECD5CA257DF6000E1091/$File/63450_dec%202014.pdf)

<sup>25</sup> Australian Bureau of Statistics, 2015, Wages Price Index, <http://www.abs.gov.au/ausstats/abs@.nsf/mf/6345.0/>

<sup>26</sup> \*Projected based on growth in the first two quarters. Australian Bureau of Statistics, 2015, Wages Price Index, <http://www.abs.gov.au/ausstats/abs@.nsf/mf/6345.0/>