

10 October 2019

Jonathan Coppel
Presiding Commissioner
Remote Area Tax Concessions and Payments study
Productivity Commission

Dear Sir

**Remote Area Tax Concessions and Payments, Productivity Commission Draft Report
Submission on behalf of University clients**

ShineWing Australia welcomes the opportunity to make a submission to the Productivity Commission in relation to the Remote Area Tax Concessions and Payments Draft Report (the Draft Report) on behalf of our University clients that have remote campuses. Our submission specifically addresses the proposed reform to the Fringe Benefits Tax (FBT) remote area concessions.

ShineWing Australia is a national accounting and advisory firm with offices in Brisbane, Melbourne & Sydney. We are part of the ShineWing International network with over 10,000 people in 79 offices in 14 countries. We provide accounting, audit, consulting, corporate finance and tax services and are a leading advisor to the University sector.

We have reviewed the Draft Report, considered the impact of the proposed changes with our impacted University clients, who are major employers in regional communities. We believe that the proposed reforms may make it challenging for Universities operating in remote areas to attract and retain quality employees, which is likely to lead to a decline in the quality of tertiary education available to remote areas. If the status quo cannot be retained, we have proposed alternative reforms that improve the integrity of the provisions without compromising the ability of remote employers to attract talent.

Should you have any further question please contact either myself or Rahul Sanghani on 03 8635 1800.

Yours Sincerelv

Stephen O'Flynn
Director
ShineWing Australia Pty Ltd

Background

We acknowledge and agree that since the FBT concessions were drafted, advancements in technology and infrastructure have improved the living conditions of Australians living in rural and remote areas. However, fundamental disadvantages still exist that make living in remote and regional areas less attractive. These include limited access to services such as healthcare, education, increased cost of goods, lack of entertainment options, separation from family and friends and increased travel times to essential services.

The individual employees who are offered roles in remote regions are confronted with the choice of:

- living in urban area with all modern facilities and amenities; or
- relocating to remote regions and face all comprehensible modern day challenges.

While many technological changes have taken place since many of tax concessions were introduced, the cost of access to these technologies is vastly different in remote Australia.

Australia is unique in that it is a geographically large nation with a comparatively tiny population. According to the most recent Australian census in 2016 the population was 23,401,892, giving a population density of approximately 3 people per square kilometre. However, the majority of Australia's population is centred in major cities along the east coast of Australia leaving large areas of Australia sparsely populated and isolated. Overpopulation in these cities is becoming an ever increasing issue that drives policies to develop and attract people to regional Australia.

Major cities are now struggling with congestion, housing affordability and inequitable access to infrastructure amenities and services. Given the general inclination of people to live in urban areas, we consider FBT remote area tax concessions critical to achieving the intended goal of increasing balance and productivity particularly in regional areas.

State Governments are taking their share of the responsibility in implementing policies to motivate people away from major centres like Melbourne, Sydney and Brisbane e.g. reduced payroll tax rate for employers in regional Victoria, back to work scheme in regional Queensland. It would therefore be only fair to expect the Federal Government to implement new measures (rather than limiting the current ones) to complement these policies.

When a University is located in a remote area it is generally the largest employer in the region. Regional Universities play an important role in regional communities and a number of other service providers rely upon Universities for their existence. Universities stand out as they not only employ people in remote areas, they also provide education being one of the key considerations in a decision to relocate. Therefore, it is important that Universities have the greatest ability to attract staff.

University employees may also be relocated to rural towns to conduct important environmental and agricultural research.

Whilst the cost of land may be cheap in remote areas the cost of construction in remote areas is generally higher due to increased costs of labour and materials (mainly due to increased transportation costs). In some remote areas, that are also impacted by mining booms, rent can be quite high due to shortages of accommodation.

Importance of the current concessions

Housing – employer provided

The employer provided remote area accommodation exemption provides assistance to employers trying to attract skilled talent to remote areas. It is particularly attractive for Universities as it is common practice for Universities to own accommodation and make it available for senior employees.

The reduction of the exemption would unfairly disadvantage remote employers as it would impose additional cost on an employer who is already struggling to attract a quality workforce.

Rather than providing exempt accommodation, Universities will be required to offer larger salaries to make relocation attractive. In the short term additional funding would be required to cover this additional cost and without it remote campuses will struggle to be able to attract appropriately qualified staff in remote areas.

From the perspective of an employee who is considering two job offers with identical salary packages, one in a remote town and the other in the city in which they grew up, the regional employer is likely to lose out on that employee every time. However, where the remote area employer is able to offer accommodation to an employee they are more likely to give serious consideration of the financial benefits of relocation to a regional area. It gives the regional universities the opportunity to compete for human resources against the city campuses of universities.

Housing – Salary sacrifice

The ability for employers to include accommodation into an employee's salary package has been integral to the continuing presence of employers in remote areas. The FBT remote area housing exemption and concessions assist regional employers in attracting people to relocate by also offering salary packaged accommodation.

In discussions with our clients they have advised that the removal of the employer provided housing exemption may lead to greater difficulty in attracting educated staff to remote areas in particular senior appointments. Rather than salary packaging housing, Universities will be required to offer larger salaries to make relocation attractive. Additional funding would be required to cover this additional cost and without it remote campuses will struggle to be able to attract appropriately qualified staff in remote areas.

From the perspective of an employee who is considering two job offers with identical salary packages, one in a remote town and the other in the city in which they grew up, the regional employer is likely to lose out on that employee every time. However, where the remote area employer is able to offer accommodation as part of a salary packaged arrangement, given the difficulty in entering the housing market for first home buyers, they are more likely to give serious consideration of the financial benefits of relocation to a regional area. It gives the regional universities the opportunity to compete for human resources against the city campuses of universities.

Budget savings?

The Draft Report also suggests that the removal or reduction of the FBT remote area tax concessions will result in increased tax revenue of approximately \$153 million (based on 2016 -17) figures. However, we believe that if the housing concessions are reduced, employers may choose to instead implement more fly in fly out (FIFO) or drive in drive out (DIDO) arrangements for remote employees (where possible), which would qualify for the Living Away from Home Allowance exemption set out in section 31A of the FBTA. This would have an impact on the overall objective of encouraging people to relocate to regional areas.

Additional compliance burden of employers

Moving from a 100% concession to a 50% concession would mean that there is increased complexity in preparing the FBT return. For example, universities regularly own the housing that is located on the regional campus and valuations will need to be obtained to determine the FBT taxable value. This is contradictory to current ATO objectives of minimising compliance obligations for employers.

Globally incentives are provided for remote areas

Other nations with expansive remote areas such as Canada have remote area tax concessions that can be claimed by individuals living in remote areas. In Canada individuals that live in qualifying areas under the Northern

Residents deduction scheme are entitled to claim an income tax deduction for living in a Northern zone, this amount is increased where you have maintained and living in a dwelling during that period.

Tax incentives like the FBT exemption and Northern residents deduction scheme level the playing field for remote employers who would otherwise struggle to put together competitive employment offers that make employees consider living in remote regions.

Certain Regional Employers

One of the proposed changes to the FBT remote area concession is the removal of the extension of the concession for 'certain regional employers' where the accommodation was within 40km of an area with a census population of less than 130,000 (S.140(1A) (refer to pages 32 & 33, table 2 page 36 & 253 of the Draft Report). These 'certain regional employers' are currently able to provide exempt accommodation to areas on the broader ATO List 2. The towns on the ATO's List 2 whilst less remote than List 1 are still subject to the difficulty of competing against employers in metropolitan employers for human capital.

Employers covered by definition of 'certain regional employers' include police, not for profits, hospital, ambulance and charitable institutions including Universities.

These employers provide important services in remote areas. The proposal to remove the 'certain regional employers' classification is likely to have an immediate impact on the ability of the impacted employers to attract skilled employees. An inability to attract skilled employees will have a damaging impact on regional communities. The Draft Report on page 33 acknowledges that:

"The potential loss of capacity to deliver services that could result from these changes to FBT concessions needs to be duly considered".

Otherwise inadvertent issues may arise. Therefore, we recommend that the Productivity Commissioner's suggested changes for 'certain regional employers' not be made.

On page 14 of the Draft Report the Productivity Commissioner recommends redrawing the remote areas to align with the areas published by the ABS. If this is to happen we would recommend that for 'certain regional employers' the boundary for exemption should be any area outside of Major Cities of Australia as per the remoteness areas map for Australia published by Australian Bureau of Statistics.

<https://www.abs.gov.au/websitedbs/D3310114.nsf/home/remoteness+structure>

Other

In many remote locations, the employers that currently receive the benefits of these concessions, contribute directly to key public services, including health services. With increased compliance costs, employer's funds will be reviewed and these community-minded project investments may not be financially sustainable.

Whilst acknowledging that they are requiring of some work, any legislation that decreases incentives for Australians to live and work remotely will be detrimental.

Customary

We support the proposal to remove the customary requirement in the FBT legislation. Lack of ATO guidance on what is customary has led to a very wide interpretation of the term customary. In some instances this has resulted in employers not applying the concession in line with the policy intent.

In our view, it should not matter if the provision of the benefit is customary if encouraging people to relocate to remote areas is the ultimate intention.

Alternatives to the proposed reforms

We have provided below some alternatives to the proposed reforms suggested in the Draft Report.

100km Relocation Exemption

We would propose that rather than removing the exemption, the current 50% reduction be expanded to 100% and a new requirement should be included to ensure that the desired policy impact is achieved. For the housing concession to apply, the employee receiving the accommodation must relocate at least 100kms to a remote area. This would be determined with reference to their permanent place of residence during the 12 month period immediately preceding the relocation. This would encourage migration to regional Australia.

For salary sacrificed housing benefits, the 100% reduction only applies for the first 5 years of the employee residing in the remote area and that then the concession reduces to a 50%. This would reflect that at this time the employee has chosen to settle and established permanent roots in the remote location. Where the employee has moved from a remote area to another remote area only the 50% concession will be available.

The purpose of this reform would be to focus on the key policy objective of encouraging relocation by employees to remote areas to grow regional Australia.

Grandfathering provisions

If the above was not acceptable, employers that already have section 58ZC exempt arrangements in place should be able to continue to claim the employer provided housing exemption for a period the greater of 5 years after the new legislation is introduced and when a fixed employment contract expires. The currently proposed reforms do not consider a transitional period when changing the legislation.

The employers may have made a significant investment in purchasing a house that may be hard to sell due to the remote location. Failing to recognise the investment and commitment reliant on the remote area exemption would be inequitable to both parties of the arrangement.

Consideration must also be given for people who have just relocated and have salary packaged housing benefits. They have made a significant life decision to relocate to a remote location factoring in among other things a tax concession. We believe that steps should be taken to ensure that they are not penalised by the proposed law reform.

These transitional rules would be similar to the LAFHA transitional rules that allowed employment arrangements for LAFHA allowances that had been put in place before the changes to be eligible for concessional treatment for an extended period. The transitional period also eases the initial compliance burden on smaller businesses that may be required to update their policies and procedures for the change.