

[remotetax@pc.gov.au](mailto:remotetax@pc.gov.au)

Productivity Commission  
Remote Area Tax Concessions and Payments  
Productivity Commission  
GPO Box 1428, Canberra City ACT 2601, Australia

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### **Productivity Commission draft report 'Remote Area Tax Concessions and Payments'**

We refer to the Productivity Commission (PC) invitation to consult on the draft report '[Remote Area Tax Concessions and Payments](#)' which was released on 4 September 2019. BDO support the PC's review and proposal to visit certain concessions and ensure they are streamlined and more targeted at achieving the relevant policy objectives. We make the following general comments about this review:

- Some of the current concessions are out of date and targeted at some of the wrong locations that are no longer considered to be remote.
- FBT compliance costs can be extensive and many of the concessions were put in place to ameliorate these extensive compliance costs.
- Remote area concessions are an important aspect of this compliance saving measure because it recognises that employers in remote areas have to provide more of these types of benefits to attract appropriate staff compared to employers in non-remote area.
- Any changes need to be carefully managed because there may be many commercial arrangements where employment costs have factored in these concessions so there will need to be some transition arrangements to ensure some people are not unfairly affected and both employers and employees are given time to reorganise their employment contracts etc.
- Charitable organisations will be impacted by any change to employer provided accommodation, with the outlay for FBT diverting funds from the other current activities. Public benevolent institutions might be FBT exempt, but in reality all of the exemption is usually applied to a salary sacrifice remuneration model to save the organisation some wages, therefore any additional fringe benefit taxable value will be in excess of the cap and taxable.
- One of the important policy objectives of these concessions should be to ensure there is adequate employment pool of people able and willing to live and work in remote locations and this needs to be kept in mind before removing or reducing particular concessions.
- Many farming enterprises both in and outside 'remote locations' find it difficult to find enough employees, particularly for seasonal work, and therefore there may be justification to extend some concessions to locations outside the current remote locations. This may also apply to certain other employers e.g. Police services.

Please refer to the appendix for more details comments with respect to some of the information requests in the Productivity Commission's draft report.

Should you have any questions, or wish to discuss any of the comments made in our submission, please do not hesitate to contact me.

Yours sincerely

Lance Cunningham  
BDO National Tax Director

## APPENDIX

### Information request 1

The Commission is seeking data capable of supporting a comparison of the cost of living in different parts of Australia, particularly in relation to housing costs.

No comment.

### Information request 2

The Commission invites feedback on its estimates of the utilisation of the FBT concessions. Are the Commission's assumptions plausible? If not, what alternative assumptions should apply? Are there other data that could assist in gauging the use of FBT concessions?

Many of the remote area FBT concessions have specific criteria that result in uneven benefits being provided to different people in similar situations. There is justification for simplification and clarification of the criteria for receiving these benefits but not necessarily the widespread removal of the concessions on the basis of economic equivalence.

BDO recommend that one of the areas that could be reviewed is the many concessions that encourage the use of a fly-in-fly out work force. If one of the policy reasons for providing remote area concessions is to encourage the establishment of local communities in remote areas there is justification for increasing the concessions that encourage employees to relocate to these remote locations rather than as fly in fly out workers.

### Information request 3

Should the revised remote area concessions be considered 'reportable' or 'excluded' benefits? Are there additional compliance burdens from allocating these benefits to individual employees that justify excluding them?

Are there any other factors that should be considered in implementing these changes?

BDO recommends that the remote area concessions remain as excluded benefits. If after the PC's review of the concessions they have been found to be justifiable, the benefit of those concessions should not be partially clawed back by the Government by including them in the relevant employees' reportable fringe benefits amounts.

We note that the current FBT legislation contains a number of provisions providing for exclusions for remote area housing benefits, such as the following sections in the *Fringe Benefits Tax Assessment Act 1986* ('FBT Act'):

- Section 5E(3)(e): Remote area residential fuel benefits.
- Section 5E(3)(f): Remote area housing benefits (50% concession re employee-sourced housing).
- Section 5E(3)(i): Certain benefits prescribed by regulations.
- Section 5E(3)(j): Benefit relating to occasional travel to a major population centre in Australia provided to employees and family members resident in designated remote areas.
- Section 5E(3)(k): Benefits relating to freight costs for foodstuffs provided to employees resident in designated remote areas.

If these exclusions remain but become reportable fringe benefits, there will be substantial additional compliance costs for employers to track the benefits per employee.

#### Information request 4

The Commission invites further information on the compliance burdens that could arise from this change in the FBT treatment of employer provided housing, and on what could be done to reduce these burdens while addressing equity concerns.

#### Compliance costs

BDO believe that remote area housing and transportation costs are too complex and do not provide an even playing field for employers and employees in remote areas. Any changes to the remote area housing and transportation concessions should therefore be aimed at simplifying and making them equitable across all the remote area workforce. However it needs to be kept in mind that many of the concessions are aimed at compliance cost reduction. The 'customary to provide' concession in section 58ZC(2)(d)(iii) of the FBT Act is a particularly subjective concession that can result in inequities.

However, there may be certain categories of employees such as police, emergency services and health providers that the Government considers need special encouragement to relocate employees to these remote areas, in which case a specific concession should be available for such situations.

Further, we note that where the changes result in the benefits generating FBT liabilities, that were previously exempted or reduced, this will lead to additional costs for employers (both for the FBT and the administration and compliance costs). Such compliance costs include data gathering and compilation and calculations, and obtaining further information for record-keeping purposes. In this case, it is possible that that the employer may no longer provide the benefits to the employee, which may result in significant impacts for the employee.

#### Employee / recipient contributions

If the FBT exemption on accommodation is removed or replaced with a 50% exemption, it is likely that the cost cannot be absorbed by the business. Therefore the choices available include:

- Increase prices on all goods and services supplied to recover this cost;
- Reduce the number of employees so the overall cost of personnel remains similar;
- Require the employees to pay an after tax contribution to mitigate the cost to the employer.

FBT is levied at the top marginal rate. In the hospitality industry this is in effect a penalty rate. Based on salaries and wages paid, no employee of FIR derives sufficient income for their personal tax rate to approach the top marginal tax rate.

The average income tax rate of the employees will be approximately half of the FBT tax rate, so in effect any benefit of the 50% exemption is significantly compromised. Similar circumstances will apply to those employed within the agricultural industries.

#### Impact on charitable organisations

Any change to employer provided accommodation will impact charitable organisations with the outlay for FBT diverting funds from the other current activities.

A number of charitable entities provide services from remote locations and provide accommodation for those working for the organisations. One such example is the Royal Flying Doctor Service (RFDS), which provides accommodation to employees including medical practitioners and pilots. Accommodation is only provided to these categories of employees and is provide out of necessity to do so to attract them to these locations.

As a Public Benevolent Institution, the RFDS is an exempt employer for FBT purposes. The exemption is capped at \$30,000 of grossed up value of fringe benefits. In broad terms, this roughly equates to about \$15,000 of taxable value of benefits (before the gross up). Employees will not be prepared to forego their remuneration benefits without being compensated by higher wages.

BDO believe that the concession for employer provided accommodation should therefore remain as an exempt fringe benefit and should remain as not reportable.

#### **Information request 5**

**How often should the FBT remote area boundaries be updated?**

**Should the FBT remote area boundaries be decoupled from the ZTO boundaries? If so, how?**

**Can the other eligibility rules for remote area concessions be improved sufficiently to make geographical boundaries redundant?**

BDO considers that the various remote area boundaries for various FBT benefits, Zone Tax Offset (ZTO) and other Government concessions should be amalgamated into one set of overarching criteria that make it easier to identify the locations that the benefits apply to. There should also be a regular review of these criteria (no longer than every 10 years) to ensure there are no changes required.

BDO believe that some of the current revised remote area concessions are out of date and targeted at some of the wrong locations no longer considered to be remote. Conversely, there are also many farming enterprises on the periphery of 'remote locations' that find it difficult to find employees, particularly for seasonal work, and therefore there may be justification to extend some concessions outside remote locations. These can extend to other specific employers, e.g. police.

Any changes need to be carefully managed because there may be many commercial arrangements where employment costs have factored in these tax concessions so there will need to be some transition arrangements to ensure some people are not unfairly affected and both employers and employees are given time to reorganise their employment contracts etc.

One of the important policy objectives of these concessions should be to ensure there is an adequate employment pool of people able and willing to live and work in remote locations.

#### **Information request 6**

**What impacts would the proposed changes to FBT remote area concessions (particularly for housing) have on the provision of key public services, such as health services, in remote areas?**

There may be certain categories of employees such as police, emergency services and health providers that the Government considers need special encouragement to relocate employees to these remote areas, in which case a specific concession should be available for such situations, as noted above. We note however, that one of the proposed changes is to remove the extension of the concession to additional areas for 'certain regional employers', which would generally cover these employees.

Section 140 (1A) of the FBT Act, provides an extended meaning to eligible urban areas, which ensures that more areas will be captured as remote areas under the housing exemption provided in Section 58ZC of the FBT Act. This results in at least 55 areas that will no longer be eligible for the FBT exemption for remote area housing; (by comparing List 2 to List 1 regarding remote areas as listed on the ATO website, which are not exhaustive lists). This can have a significant impact on the provision of key public services in these remote areas.

### Other issues - Concessions for individuals

Agribusinesses often find it difficult to attract talent to work in regional Australia and they often have to compete with the mining industry to provide competitive salaries making it more difficult to attract the right people prepared to relocate to work in agribusiness in regional and remote locations.

BDO believe that more concessions need to be provided to increase the attractiveness of working in the agribusiness industry including:

- Exempting individuals who work in an agribusiness in a regional area from the luxury car tax as the cost of travel is a major consideration for people living and working in remote locations and who often require a more substantial vehicle that can handle the rigours of long distance travel. The current luxury car tax threshold for fuel-efficient cars should be removed for individuals that qualify for an exemption;
- Providing HECS relief for individuals who choose to work in agribusiness whilst they work in regional centres to attract younger and more mobile people to consider working in agribusiness;
- Providing individuals with a significant tax rebate for working in remote areas in agribusiness. The current remote area rebate is inadequate, outdated and only targets individuals who live in remote areas. A more targeted rebate should be introduced to encourage work in the industry;
- Providing agribusinesses with Government incentives to employ people; and
- Providing regional scholarships and other funding for students studying agriculture related courses.

BDO believe that an increase in the talent pool available to agribusinesses will ultimately support increased profitability. Some of that talent pool may end up working in service industry roles as well as on the farm, and should ultimately increase the knowledge levels and competency of related industries that that would benefit from such knowledge, such as in the technology and investment space.