

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 Water Authority clients:

- **East Gippsland Region Water Corporation**
- **South Gippsland Region Water Corporation**
- **Westernport Region Water Corporation**

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 on behalf of our Water Authority clients that have operate in regional Victoria. 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 Victorian Water Authorities.

We have reviewed the draft report, considered the impact of the proposed changes with our impacted Water Authority clients, who are major employers in regional communities. We believe that the proposed reforms may make it challenging for Water Authorities operating in remote areas to attract and retain quality employees, which is likely to add to the challenges faced by them. 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 Sincerely

Daren Yeoh
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 Water Authority is located in a remote area it is often one of the largest employer in the region. Regional Water Authorities play an important role in regional communities and a number of other service providers rely upon Water Authorities for their existence. Water Authorities stand out as they not only employ people in remote areas, they also provide a critical infrastructure, which itself being one of the key considerations in a decision to relocate to the region. Therefore, it is important that Water Authorities have the greatest support to be able to attract staff with the requisite skillset, experience and talent.

Whilst the cost of land may be cheaper 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 activities, rent can be elevated due to shortages of accommodation.

Importance of the current concessions

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 concessions assist regional employers in attracting people to relocate by also offering salary packaged accommodation. It is particularly important for Water Authorities as it is common practice for Water Authorities to allow employees to salary package housing benefits.

In discussions with our clients they have advised that the removal of salary packaged housing concession may lead to greater difficulty in attracting skilled staff to remote areas in particular senior appointments. Rather than salary packaging housing, Water Authorities will be required to offer larger salaries to make the relocation attractive. Additional funding would be required to cover this additional cost and without it, remote employers 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 or near an urban area, 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 relocating to a regional area. It gives the regional Water Authorities the opportunity to compete for human resources against their metropolitan counterparts.

Housing – employer provided

The employer provided remote area accommodation exemption provides assistance to employers trying to attract skilled talent to remote areas. It is not uncommon for Water Authorities to own or lease 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, Water Authorities will be required to offer larger salaries to make relocation attractive.

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. 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 housing 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.

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 Productivity Commissions 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. In addition, the employee must have been previously residing in a non-remote area to qualify for this exemption or reduction. 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.