



**CALTEX**

Caltex Australia

---

Caltex Corporate Office  
Level 24  
2 Market Street  
Sydney NSW 2000  
Phone: +61 2 9250 5000  
Fax: +61 2 9250 5742

3/02/2012

To: Manager  
Philanthropy and Exemptions Unit  
Personal and Retirement Income Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Email: [fbt@treasury.gov.au](mailto:fbt@treasury.gov.au)

Dear Sir/Madam

**Response to the “Fringe Benefits Tax (FBT) Reform Living away from home benefits Consultation Paper”**

Caltex is pleased to provide the following comments in response to issues which are raised in Treasury’s recently released consultation paper “FBT Reform Living Away from Home Benefits”. We will be addressing the following questions raised for consultation.

**Questions for consultation**

1. Are there any unintended consequences from the proposed reforms?
2. What practical aspects of the proposed reforms need further consideration?
3. Are there any interactions with other areas of the tax law that need to be addressed?

- **Are there any unintended consequences from the proposed reforms?**

For Caltex a major refiner in Australia and one of Australia's largest employers in the manufacturing and retail sector, the proposed changes to the Living Away From Home ("LAFH") rules will not only impact the costs associated with our employment opportunities but also our day-to-day business operations. Caltex requires regular assistance with the changes in the international competitiveness that our industry is exposed to. We are required to keep abreast of the international competition and therefore seek assistance from our overseas associates to facilitate change and support. We are required to employ highly specialised skilled people for their industry specific experience and knowledge to develop and grow our business in Australia. Employing these people from overseas comes at a cost, we are required to match the person's existing remuneration and fund the additional cost for them to arrive and live in Australia which includes the income and fringe benefit taxes.

The unintended consequence from the proposed reforms will result in penalising businesses such as Caltex requiring specialist skill and knowledge not available locally in Australia, by substantially increasing the costs of engaging appropriately skilled foreign nationals.

Caltex often needs the skills and knowledge of people from overseas to assist with specific refinery projects such as a shutdown. A shutdown is a planned, periodic shut down of a refinery unit or plant to perform maintenance, overhaul and repairs and to inspect, test and replace materials and equipment. Such a large project severely impacts the operation and safety of the refinery and often requires specific knowledge and skills not available in Australia. Also, to market our business effectively in Australia we require a marketing department that has specific knowledge in petroleum. This type of experience is not readily found in the Australian workforce.

As a result Australian businesses such as Caltex will be faced with an additional financial burden in the form of additional taxes when sourcing employees with industry specific knowledge and skills from overseas.

In most cases the executives we employ from overseas leave their homes and are impacted by having to bring family across and set up a new temporary life whilst on their contract term. In some cases they maintain their overseas residence and have the additional burden of keeping them. The proposed reforms will result in FBT being payable on all costs associated with the temporary employee staying in Australia for the term of the contract.

Caltex recommendation: We believe that a fair and equitable method would be to apply Living Away From Home Allowance ("LAFHA") on the additional costs of living away from home, where the employee (resident or temporary) is living away from home **and** is also maintaining another home in their permanent location. This will retain the attraction of experienced overseas recruits coming to Australia to share the knowledge and skills without creating significant financial burden on the business that is required for its day-to-day business operations.

- **What practical aspects of the proposed reforms need further consideration?**

Caltex recommendation: We request that the transitional rules include a consideration for existing contracts with LAFHA arrangements. The current contracts were prepared based on pre existing law at the time. Should there be an immediate application this will affect our costs associated with the arrangement of these employees and leave them and Caltex at a substantial disadvantage. Caltex strongly supports the need to relieve the impact that these changes will have and for Treasury to phase in the rules over at least the next two years to prevent major and unnecessary adverse effects.

- **Are there any interactions with other areas of the tax law that need to be addressed?**

It is recommended that the interactions surrounding FBT treatment of other provisions such as the Miscellaneous Exempt Benefits (Div 13 of FBTA) that are impacted by living away from home be clarified, including:

- Removals and cost of storage;
- Engagement of relocation consultant;
- Education of overseas employees;
- Relocation transport;
- Leasing of household goods while living away from home;
- Overseas holiday transport;
- Connection and reconnection of certain utilities;
- Sale or acquisition of dwelling;
- Temporary accommodation; and
- Meals whilst living in temporary accommodation

In addition, we also seek clarification on how statutory overseas payments or contributions (eg social security, health insurance etc) are treated for FBT.

February 3, 2012

**Conclusion**

We request the Government carefully consider the impacts that these proposed changes will have on bringing overseas talent into Australia. We recommend if the changes are made that there is adequate transitional relief across at least a 2 year period to ensure employers and their employees are not adversely affected for pre existing contracts. It is important, from a fair and equitable perspective, to align the temporary resident rules to the permanent resident rules where the employee retains a home in their country of origin.

We believe the proposed FBT reforms on Living Away From Home benefits will have a negative impact on the Australian economy by reducing the number of specialised skilled workers coming in to assist with growth and development that this nation needs.

Please contact Grace Leung (gleung@caltex.com.au / 02 9250 5901) or Kathrine Bolton (kbolton@caltex.com.au / 02 9250 5455).

Yours sincerely



**Simon Hepworth**  
**Chief Financial Officer**