



31 January 2012

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

Sent via email to: FBT@treasury.gov.au

Fringe Benefits Tax (FBT) Reform: Living-away-from-home benefits

Dear Sir/Madam

We are pleased to enclose a submission in response to the Consultation Paper, November 2011.

We understand the aims of the proposed changes are to address perceptions of exploitation of the LAFH benefit and reduce the cost to Government Revenue. At the same time, we are concerned about the impact on our business, our industry and the broader Australian economy if the ability of employers to attract and retain skilled professionals from overseas is significantly impacted by the proposed changes. The nature of projects in the mining, resources and infrastructure sectors means that companies like URS are reliant on international professionals to fill the skills gaps in the Australian labour market. The provision of the LAFH benefit to temporary residents has been a key factor in attracting those professionals to Australia.

We outline our concerns in the attached submission and would encourage Treasury to consider alternatives to the complete abolition of Living Away from Home (LAFH) benefits for temporary residents.

If you wish to discuss any aspect of this submission, please contact Heather Brown, Human Resources Director Asia Pacific on 02 8925 5523 or heather.brown@urs.com

Yours sincerely

URS AUSTRALIA PTY LTD

David Williamson
Managing Director



Fringe Benefits Tax (FBT) Reform

Living-away-from-home benefits

We submit the following comments in response to the invitation for submissions in the Consultation Paper, November 2011.

1. Impact of the proposed changes on our business operations

URS Australia Pty Ltd anticipates the proposed changes to LAFH Benefits will have a significant impact on our business operations. As a leading provider of engineering, construction and technical services to the private and government sectors in Australia, and particularly the mining and resources industries, we are concerned that our ability to attract and retain highly skilled temporary residents to fill the skills gap in the Australian workforce will be adversely affected by this change.

Australia is currently experiencing a severe skills shortage that is predicted to worsen due to the number of projects in mining, resources and infrastructure which are due to commence in the next few years. Australia is already regarded as an expensive place to work and to operate a business. The inability to assist international workers by offering concessions to assist with the additional costs incurred in relocating will make Australia less attractive to the very workers we need.

URS's talent strategy is to recruit and develop local nationals. We are upgrading our Graduate Recruitment & Development Program to build a larger skills pipeline for the future. As this strategy has a long lead time, we need to continue to be able to attract overseas workers for current and near-term projects. While more than 85% of our Australian workforce comprises Australian nationals and permanent residents, URS is required to attract highly skilled professionals from international locations to fill the skills gap in our local national workforce. Listed below are examples of the types of roles which we have had extreme difficulty in filling within Australia and for which we need to hire overseas workers:

Position:	Position open for:
Transport Manager – NSW	14 months
Regional Manager – NSW	24 months
Principal Hydrogeologist – Vic	18 months
Senior Principal Hydrogeologist – SA	18 months
Principal Dams/Water Engineer – SA	20 months

The remuneration package offered to temporary resident employees is equivalent to that of our local employees and is a key requirement for approval by DIAC. That is, there are no additional on-going payments over and above salary. Of the 134 employees currently receiving a LAFH benefit,



more than 87% are being paid a salary below \$150,000. These are highly skilled employees that Australia needs to fill the skills shortage, not 'highly paid executives rorting the system'.

We have already had a recent example of a potential employee who was going to fill a long outstanding senior position leading one of our business lines, however, based on the proposed changes to the LAFH benefit, he is now unwilling to accept the offer to relocate to Australia and instead will remain in his current location.

In addition, feedback from current temporary resident employees indicates that some will need to consider returning to their home location, as the proposed changes will make it uneconomic for them to remain in Australia.

It will also not be economically viable for URS to pay increased salary or allowances to temporary resident employees as compensation for the proposed changes to LAFHA as projects will not bear additional costs and cannot be passed on to clients. In addition, even if this was a viable solution for our temporary residents, it would create parity salary and allowance issues with our local employees. Like many other Australian companies, we have entered into contracts with clients where pricing was determined based on employee costs at the time. As it may not be possible to renegotiate contracts to account for the increased employee costs, we will be faced with loss making contracts. We also anticipate flow-on effects to sub-contractors who will be unable to absorb the potential additional costs in their businesses.

2. Unintended consequences

It is difficult to reconcile the likely impact of the proposed changes to the LAFH Benefit with other measures that the Federal Government has introduced to close the skills gaps and to encourage and enable the employment of highly skilled workers in Australia, such as the Sponsorship Accreditation Scheme which will provide priority processing for all subclass 457 nominations and visa applications, and the Senate Inquiry into the Shortage of Engineering Skills. With over \$150 billion of capital projects planned in the next 5 years, Australia needs to be competitive to attract both capital and people.

The increase in tax generated from the LAFHA reforms is a fraction of the revenue that would be delayed or lost should resource production be slowed. Without overseas workers the construction industry production rate would be slowed, labour costs would rise due to talent shortages and ultimately the infrastructure will not be in place to support resource production or for cities to properly function.

A further unintended potential consequence of these changes is that Australia will be increasingly uncompetitive in a global labour market in attempting to attract skilled international professionals. As stated earlier, Australia is already regarded as an expensive place to work and to operate a business. Other countries which continue to provide benefits will be more attractive to both capital and workers.

URS Australia Pty Ltd (ACN 000 691 690)
Level 4, 407 Pacific Highway
Artarmon NSW 2064
Australia
Tel: 61 2 8925 5500
Fax: 61 2 8925 5555

3. Options and Transitional Arrangements

Whilst maintaining the aim of eliminating the opportunity to exploit LAFH Benefits, we urge the following options be considered as an alternative to complete abolition of the LAFH Benefits for temporary residents, such as:

- Providing LAFH Benefits for employees under an indexed annual salary amount (for example \$150,000 p.a.)
- Providing reasonable accommodation thresholds taking into account family size, similar to the current reasonable food component amounts. Under this alternative, temporary residents would only be able to receive accommodation assistance up to their actual costs or the reasonable accommodation threshold, whichever is less. Similar to the food component, any amount in addition to the reasonable accommodation threshold would be subject to FBT or income tax, depending on how LAFH allowances are governed in the future.

At the very least there should be transitional arrangements for existing LAFHA recipients. The proposed implementation date of 1 July 2012 does not give people with long term commitments such as housing leases enough time to reassess their situation and adjust their housing commitments to the new arrangements without being financially disadvantaged. Employees who have accepted a position in Australia based on the current LAFH entitlement should be able to 'grandfather' this benefit until the end of their current 457 visa.

4. Unanswered questions

The proposed reforms leave a number of questions unanswered:

- There is no mention of home leave and children's education expenses. It should be recognised that individuals in NSW and ACT who send their children to government schools will be at a disadvantage to an Australian citizen as they are required to pay an annual Education Fee for each child.
- Will the concessions for temporary relocation costs remain (e.g. shipping, storage, relocation flights, temporary accommodation etc.)?
- Will the concessions for permanent relocations remain (e.g. costs of property sale and purchase, shipping, transportation, etc.)?

5. Conclusion

Research continues to predict an increasing skills shortage in Australia:

"Immigration & the Resources Boom Mark 2", Centre for Population and Urban Research, Monash University, July 2011, Page iii: "The case for higher migration partly rests on estimates of the



number of skilled workers that employers require. The most widely quoted source on the scale of this need has been prepared by the government's workforce advisory body, Skills Australia. It concludes that Australia will need an extra 2.4 million skilled workers by 2015 and an extra 5.2 million by 2025".

Deloitte Access Economics report to Skills Australia, May 2011: "Skills shortages in the resources sector"

- (Page ii) "The Deloitte Access Economics-Arup *Investment Monitor* for March 2011 shows some \$118 billion of mining projects underway in Australia and committed to start soon. Beyond that there are a further \$236 billion of mining projects in the planning pipeline at present".
- (Page iv) "Significant shortages are also reported or projected for some professional/tertiary qualified staff. These are most notable for a range of engineering related occupations but also include several other roles. These include:
 - Engineers – mining; mechanical; civil; petroleum; chemical; electrical
 - Occupational health and safety professionals
 - Environmental scientists
 - Geologists
 - Mine surveyors"
- (Page 30) "Engineering skills shortages are considered to be an issue of supply. Engineering skills shortages are not cyclical but chronic and systemic, and linked to identifiable, cross-sectoral supply-side issues. For example, there is an identified supply mismatch between the number and specialisations of engineering graduates produced by Australian universities and the VET sector, and the identified needs of industry and the community. There are also concerns about the recruitment and retention of female engineers, an ageing workforce, and the sustainability of Australia's reliance on offshore recruitment and international students given that engineers are in short supply the world over."

We have outlined above the concerns of URS Australia Pty Ltd in relation to the proposed changes to the LAFH benefit and the potential significant impact on our business and employees. We do not believe that the majority of recipients of LAFHA are exploiting the concessions and require the assistance to compensate them for the additional costs incurred when temporarily relocated in Australia. While understanding the need to contain the cost to Treasury revenue, we do not believe the proposed changes will achieve the desired outcomes due to the much broader impact on the Australian economy.

Copied below is feedback received from two employees about the potential impact of the proposed changes on their personal circumstances.



Example 1

"The LAFHA was a significant factor in the decision by my wife and me to come to Australia. Absent any substitute arrangement, we will probably accelerate our return to the United States if it is abolished.

Our particulars are as follows:

- Since our move to Australia was for a temporary assignment, my wife and I kept our home (and mortgage) in the United States. We are now also renting an apartment in Adelaide.*
- Our two adult daughters, neither of whom has additional family, have lived in our home in Denver while we have been in Australia. They are only able to make nominal rent payments that do not cover the full mortgage. Given the real estate situation in the United States it is highly questionable whether we could rent our home to anyone and cover the mortgage cost. Maintenance costs and storage of our possessions would also add substantially to the cost of renting the home.*
- Our apartment in Adelaide is well located within the CBD, but it is small and far from lavish. Yet it costs more in rental (in AUS\$) than our mortgage in the United States (in US\$). Our housing arrangement is not lucrative even with the LAFHA. The exchange rate between the two currencies when we first came here made it worse. Though that situation has significantly eased, recent price inflation in Australia has eroded the arrangement's financial sustainability. Without the LAFHA it would become untenable. I am earning what I consider to be an attractive salary in Australia, but that will not overcome the financial disincentive of housing costs if the LAFHA is abolished.*
- Regarding taxes in general – Our income is taxed in both Australia and the United States. (To be fair, there are treaty considerations such that we are not taxed fully in the US on my Australian income.) We are not receiving a novated car lease or any tax-advantaged financial benefit other than the LAFHA and standard superannuation. To the contrary, my superannuation will be taxed at a very heavy rate when I withdraw the funds unless I become an Australian citizen, despite the contributions having been paid by my Australian employer exactly as though I were any other employee. Perversely, because I am working for an Australian corporation I am not able to make any tax-free salary sacrifice to my US retirement plans or contribute to my US Social Security earnings record.*

I don't believe we are getting any overall tax or financial benefit because I am working in Australia. In fact we have probably suffered financially because, as with most expat couples we have met, my wife has not been able to find professional employment. Notwithstanding that she obtained Australian certification in her profession and worked persistently with recruitment agencies, her abilities and qualifications have not been recognised by potential local employers. We did not anticipate that situation in the least when we moved here. Please understand that I am not complaining. I signed up to move here with my eyes wide open, and we have been well treated by URS. But the LAFHA was one of the considerations in the move (I believe it is mentioned in my contract), and its loss would make a big difference to us. We had been planning to return to the United States just before our 457 visas expire, which will be December 4, 2012. If the LAFHA is abolished effective July 1, 2012,



we will seriously consider asking URS for either a transfer back to the United States or some other suitable arrangement at that time.

With your indulgence I will make one slightly extraneous observation. While in Australia I have worked for Olympic Dam and other mines, and I have observed what I consider to be a very high percentage of expatriates among technical and engineering employees in the mining and related industries. It seems clear to me that Australia simply does not have the technical work force to support the large number of world-class resource projects which are currently planned for the country. I believe that absence of the LAFHA would be a serious disincentive to non-Australians who might consider coming here for a few years to work on those projects, and I don't think Australia can afford that."

"With regards to the potential removal of the LAFHA scheme, this would cause significant difficulties to me and my partner.

Example 2

The removal of the LAFHA would require us to significantly downgrade our current accommodation (which we are tied into by a 12 month tenant agreement – a decision budgeted taking LAFHA into consideration).

As the tenant agreement ends / is up for renewal we will need to be certain of the status of the LAFHA scheme and it's applicability to us, as it will influence our ability to stay where we are, or to move on and downsize.

Both of which have significant costs associated with them, whether continuing to pay for the current accommodation (with a view to taking on a 3yr tenancy deal) or moving and downsizing.

As a UK passport holder I am here as a Temporary sponsored visitor on the 457 Visa, the provision of the LAFHA allows me to maintain my costs / expenditures from my property and responsibilities in the UK whilst maintaining my partner and me here in Australia. The removal of the LAFHA would jeopardise either my mortgage at home in the UK, or the rented property we are in at present. Neither of which are prospects to look forward to. As I understood it, the LAFHA was established to allow aid to those working here in Australia whilst having tax obligations / responsibilities back in their home country. Without this allowance, life will be significantly harder, especially as the Global Financial Crisis (GFC) has badly impacted the housing market and selling prices – leaving many people with a property that they cannot sell, but have to rent out, a process which comes with significant additional costs.

Rent, utilities and food are the three biggest single costs on a monthly basis, the LAFHA assistance with Rent and Food makes a significant contribution, allowing us to cover the payments back in the UK and have a budget to live on. The removal of the LAFHA would significantly cut this budget and require significant cost saving exercises to prevent defaulting on financial commitments in the UK. Without the commitments in the UK to cover,



the standard salary offered through the sponsored contract would be suitable and adequate, but as things stand currently, we have a requirement for almost ¼ of the salary to be returned to the UK, this is where the LAFHA makes a big difference.

We were unaware of the planned scrapping of the LAFHA and had budgeted on its inclusion when making the decision to stay where we are currently, had we known that the LAFHA was in jeopardy, then we would have chosen a smaller, cheaper location to stay and established a longer let to prevent the requirement to potentially move again. A wholesale scrapping of the system is untenable and those who are already on the scheme should be allowed to continue on the scheme at a minimum. Anyone on an existing 457 should be eligible to stay on the LAFHA until their contracts are up, or they apply for residency / repatriation. I believe this was referred to in our information e-mail as "grandfathering".

This news is both distressing and unexpected, and will significantly impact upon future decisions. Our current tenancy agreement will be up in May and we need better communication and information before then to allow us to decide on our future options. I hope that the Q1 update in February will be positive"