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# Santos

2 February 2011

The Manager  
Philanthropy & 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

**Submission on the Consultation Paper – Fringe Benefits Tax Reform  
Living-Away-From-Home Benefits released on 29 November 2011**

Santos welcomes the opportunity to make a submission in relation to the proposed reforms to the fringe benefits tax (FBT) treatment of Living Away From Home (LAFH) benefits as announced by the Government on 29 November 2011.

Santos is mindful of the government's intention to implement the proposed reforms, however they will have a significant impact on Santos' business and as such we do not support the reforms as currently proposed.

**About Santos**

As an Australian energy pioneer, Santos is one of the country's leading gas producers, supplying Australian and Asian customers. Santos has been providing Australia with natural gas for more than 40 years and is one of Australia's largest producers of natural gas to the domestic market. Santos has also developed major oil and liquids businesses in Australia and operates in all mainland Australian states and the Northern Territory. From this base, Santos is pursuing a transformational liquefied natural gas (LNG) strategy with interests in four exciting LNG projects.

Santos has approximately 2,700 employees working across its operations in Australia and Asia.

Santos is listed on the Australian Securities Exchange (ASX Ltd) and is one of Australia's Top 30 companies.

**Importance of the LAFH benefit to Santos**

The provision of LAFH benefits is a valuable attraction and retention tool in that it compensates employees for additional costs associated with living away from their usual place of residence. Within the context of a narrow and competitive technical market, the LAFH benefits allow Santos to structure remuneration arrangements to attract highly skilled and experienced senior industry professionals from overseas who are highly sought after.

Santos has been utilising the LAFH benefits for a number of years when it has been necessary to attract overseas professionals. Recently we have been recruiting for our multi-billion dollar LNG project in Gladstone, Queensland, as well as for projects in Western Australia, Northern Territory, significant operations in the Cooper Basin, South Australia, and South West Queensland. All of these projects and operations enable Santos to grow its business locally, support the communities in which we operate and contribute to the development of the oil and gas industry in Australia.

Such large projects require staff with a depth of expertise and experience that is in short supply in Australia. The projects provide significant local employment opportunities but the benefit of overseas professionals being part of our teams is that it provides an excellent avenue for our locally sourced staff to learn from their overseas colleagues.

All roles filled by the LAFH recipients are advertised both locally and overseas. All applicants for roles with Santos are assessed according to the same framework regardless of whether they are Australian Citizens/Permanent Residents or overseas staff requiring a subclass 457 visa.

The process by which Santos applies and administers the provision of LAFH benefits is detailed in policies which relate to the mobilisation of our workforce. Santos takes great care to implement the LAFH benefits within ATO guidelines and works closely with its external tax advisor on determining eligibility and application.

### **Impact of the proposed changes**

Should the Federal Government implement the proposed changes to the LAFH benefit, there will be an immediate impact on Santos as well as on our current LAFH recipients.

With a number of similar competing projects underway (both locally and overseas), Santos is attempting to attract the same senior technical and industry professionals as our competitor organisations. The proposed changes will make Australia a less attractive destination (relative to other overseas countries) for those industry professionals needed to progress such projects. We believe that the proposed changes will result in additional time for us to attract staff and to fill roles which will impact our costs and our ability to meet project milestones as well as our track record as an Australian company that delivers on projects. On a broader level, this has the potential to impact the country's reputation to finalise and deliver projects on time and within budget.

As each of our existing LAFH recipients has signed an employment contract inclusive of entitlement to the LAFH benefit, should the proposed changes come into effect from 1 July 2012, we will be obliged to re-issue and re-negotiate contracts with each of these individuals. This exercise is complicated in terms of what may be negotiated or agreed and costly in terms of the hours it will take for staff to complete such an exercise in the given time frame.

In addition, since the announcement there is a growing unease among those employees who are receiving LAFH entitlements. The 'goalposts' have effectively moved and it is possible that some may seek employment opportunities outside Australia. We are also encountering potential candidates who are expressing concern in relation to the cost of living in Australia. The proposed changes are compounding their concern and alternative offshore offers are becoming more attractive.

Should the changes proceed as proposed, it is our intention that existing employees currently receiving the LAFH benefit will not be financially impacted. In order to ensure our employees are unaffected, we plan to compensate the employee for the net cash flow loss as a result of the proposed changes. The total cost to Santos of doing so is estimated to be \$6 million. This significant cost is unbudgeted as are any additional superannuation and payroll tax costs that would occur.

## Transitional Arrangements

Santos acknowledges the government's objective to implement LAFH reform however, the proposed changes do not include any transitional provisions.

Santos considers that it is unreasonable to impose the LAFH changes retrospectively and we request that the government consider the following for existing recipients and for anyone hired prior to the proposed implementation date of 1 July 2012.

- Current LAFH recipients have made decisions to enter into accommodation leases on the basis of the taxation laws that existed at the time. As a result of the proposed changes they will find that their financial circumstances have been significantly impacted. As such we believe that where the employee would have received the full LAFH benefit (food and accommodation components) for four years, that transitional rules be implemented so that they continue to receive their full LAFH benefit for the remainder/balance of the four year period post 1 July 2012.

Whilst the above remains our preference, should that not be adopted we propose the following options for consideration:

- Where the employee would have received the full LAFH benefit (food and accommodation components) for four years, transitional rules be implemented so that they receive a capped accommodation LAFH benefit for the balance of the four year entitlement period from 1 July 2012. Similar to the food component cap, the accommodation cap would be determined by the ATO and could be based upon family size.
- Where the employee has a fixed term lease for their accommodation and the lease ends after 30 June 2012, transitional rules be implemented so that they continue to receive the accommodation component until the end of the fixed term lease. The food component would continue for the remainder/balance of four years post 1 July 2012.

Santos would welcome the opportunity to discuss this submission with Treasury. Should you have any queries relating to the content of this submission please contact Michael Collins, Manager HR Policy, Planning & Systems.

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Yours sincerely



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**Chief Human Resources Officer**