

3 February 2012

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

By email: fbt@treasury.gov.au

Dear Mr Leggett

Re: FBT Reform: Living-away-from-home-benefits

Thank you for the opportunity to comment on the Treasury's proposed reforms to the fringe benefits tax treatment (FBT) of living-away-from-home allowances (LAFHA).

Woolworths operates some of the most recognisable and trusted brands in retailing, serving millions of customers every day with great choice, low prices and excellent quality across more than 3,100 stores. Delivering a world-class retail offer to customers can only be achieved through having the best possible team in place and investing in talent. Woolworths is a major employer in Australia employing more than 170,000 employees across the country, 50,000 of whom are located in rural and regional Australia. Woolworths is also one of Australia's largest training organisations with over 5,000 trainees and apprentices as part of the Woolworths team.

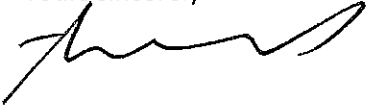
The Australian retail sector has changed considerably over recent decades with significant evolution in retail formats, the introduction of new, varied and innovative products, enhanced convenience and value and increased choice as to how, when and where to satisfy their retail needs. Areas of the retail sector experience skills shortages and it is important to facilitate the employment of experienced global retail professionals to ensure our local industry remains competitive. For many temporary residents, the LAFHA helps facilitate their move into the country and can go some way to redressing the significant expenses they face when relocating to a new country.

Woolworths believe there are alternatives the Government could consider when looking to reform the LAFHA for temporary residents including time restrictions and capping allowances. Should the proposed reforms proceed in their current form, Woolworths recommends a transitional period be

put in place after the 1 July 2012 implementation date to ensure any changes would not unduly impact families before they have a reasonable opportunity to adjust their financial situation.

Should you require any further information or wish to discuss this further, please do not hesitate to contact Cassandra Simpson, Public Policy Manager, on 02 8885 9133 or at csimpson@woolworths.com.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Andrew Hall', written in a cursive style.

Andrew Hall
Director – Corporate and Public Affairs
Woolworths Limited

WOOLWORTHS LIMITED

Woolworths Limited

Response to consultation paper *Fringe Benefits Tax Reform: Living-away-from-home benefits*

03 February 2012

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1 Executive summary

Woolworths Limited welcomes the opportunity to provide feedback on Treasury's proposed reforms to the fringe benefits tax treatment (FBT) of living-away-from-home allowances (LAFHA).

Woolworths operates some of the most recognisable and trusted brands in retailing, serving millions of customers every day with great choice, low prices and excellent quality across more than 3,100 stores. Delivering a world-class retail offer to customers can only be achieved through having the best possible team in place and investing in talent. Woolworths is a major employer in Australia employing more than 170,000 employees across the country, 50,000 of whom are located in rural and regional Australia. Woolworths is also one of Australia's largest training organisations with over 5,000 trainees and apprentices as part of the Woolworths team.

The Australian retail sector has changed considerably over recent decades with significant evolution in retail formats, the introduction of new, varied and innovative products, enhanced convenience and value and increased choice as to how, when and where to satisfy their retail needs. To remain competitive in a changing global retail climate, Woolworths needs to continue to innovate and develop its business to meet emerging customer demands. An organisation can benefit greatly from the fresh ideas and experience new staff can bring to the workplace, including highly-skilled and experienced international candidates.

Areas of the retail sector experience skills shortages and it is important to facilitate the employment of experienced global retail professionals to ensure our local industry remains competitive. For many temporary residents, the LAFHA helps facilitate their move into the country and can go some way to redressing the significant expenses they face when relocating to Australia.

Woolworths believe there are alternatives the Government could consider when looking to reform the LAFHA for temporary residents including time restrictions and capping allowances. If the proposed reforms proceed in their current form, Woolworths recommends a transitional period be put in place after the 1 July 2012 implementation date to ensure any changes would not unduly impact families before they have a reasonable opportunity to adjust their financial situation.

2 Overview of Woolworths Ltd

Woolworths operates some of the most recognisable and trusted brands in retailing, serving millions of customers every day with great choice, low prices and excellent quality across more than 3,100 stores. These include Woolworths supermarkets, Thomas Dux grocery stores, BIG W discount department stores, Dick Smith electronics outlets, Woolworths Petrol sites and Dan Murphy's and BWS liquor outlets. Woolworths also recently began injecting new competition into the hardware market in Australia through our Masters stores, with six stores now open across the country. Woolworths' presence and investment across Australia is also expected to grow significantly in the coming years with the continued roll out of our Masters home improvement stores, with plans announced to secure 150 sites for these stores in the next five years.

Delivering a world-class retail offer to customers can only be achieved through having the best possible team in place and investing in talent. Woolworths is a major employer in Australia

employing more than 170,000 employees across the country, 50,000 of whom are located in rural and regional Australia. Woolworths is also one of Australia's largest training organisations with over 5,000 trainees and apprentices as part of the Woolworths team. Woolworths also engages a number of highly-specialised international recruits, including employees claiming living away from home benefits.

3 Recruitment challenges: the changing face of retail in Australia

The Australian retail sector has changed considerably over recent decades with significant evolution in retail formats, the introduction of new, varied and innovative products, enhanced convenience and value and increased choice as to how, when and where to satisfy their retail needs. In recent years, the packaged groceries industry has also seen new international entrants in the market, such as Aldi and Costco, grow swiftly and successfully. The key driving force behind these changes has been the evolving needs and expectations of Australian customers as their lifestyles have evolved, new technologies have developed and an increasing variety of products have become available. This is a trend that will continue – that is, customers and their changing behaviour will continue to determine the way in which Australian retail develops over coming years.

To remain competitive in this changing global retail climate, Woolworths needs to continue to innovate and develop its business to meet emerging customer demands. As one of the 20 largest retailers in the world, and the largest retailer in Australia and New Zealand, Woolworths has an extensive business and large employee base. We are committed to developing our own staff, and remain one of the largest training organisations in the country. In fact many of our management have been with Woolworths for their entire careers, working their way up from our stores. While we are committed to fostering leaders among our own staff members, an organisation still benefits from the fresh ideas and experience new staff can bring to the workplace. In Australia there is only a limited pool of candidates in some of the most demanding retail positions, sometimes only a handful of individuals, and it is simply not possible to find appropriately qualified and experienced candidates locally. For this reason, Woolworths looks internationally to recruit for some of our specialised positions.

Candidates with international experience provide a crucial window to overseas developments in the sector and help ensure the Australian retail market keeps step with its global counterparts. One example of the key challenge for Australian retailers presented by overseas competitors is the expansion of multi-channel retailing and in particular, the need to develop attractive online offers for our customers. A recent Productivity Commission report on the economic structure and performance of the retail sector found that overseas online sales make up about a third of all online sales in Australia¹. In this respect, Australia trails other countries such as the United States and United Kingdom², but if these growth trends are replicated locally, online sales look to increase significantly in the Australian retail market in the coming years.

Despite the potential for growth in this area, the Productivity Commission highlighted a number of challenges for the retail sector in its pursuit of multi-channel opportunities. Some of the key impediments identified were a "lack of knowledge as to how to start an online business" and

¹ Productivity Commission, *Economic Structure and Performance of the Australian Retail Sector*, 2011, p73.

² *Ibid.*, p90.

“shortages of employees with relevant IT skills and knowledge of web-based interface”³. This is just one example of where retailers benefit from looking overseas to secure the requisite talent and experience to ensure our local retail market continues to be competitive.

4 Proposed reforms

The FBT treatment of LAFHAs provided to employees has been in place since the enactment of the FBT legislation in 1986. The intent of the legislation was to compensate employees for additional expenses incurred and disadvantages suffered due to living away from home. In the years since 1986 a number of issues have arisen as to its proper application despite the Australian Taxation office issuing a number of public rulings to clarify the uncertainty. In this context we welcome the Treasury’s moves to reform the benefit to ensure it is used for proper purposes and streamline the rules so they are clarified for both employers and employees. That said, we do have some concerns with the reforms as they are currently framed, particularly with regard to their impact on temporary residents. Whilst the proposed reforms do not directly preclude temporary residents from being able to receive a LAFHA, the eligibility criteria is such that this will be the outcome in almost all cases.

As noted above, areas of the retail sector experience skills shortages and it is important to facilitate the employment of experienced global retail professionals to ensure our local industry remains competitive. With Australians experiencing such high costs of living compared to the rest of the world, the LAFHA plays a role in attracting overseas talent to our shores. In a recent worldwide cost of living survey⁴, Sydney was ranked the world’s sixth most expensive city to live in, with Melbourne coming in at number 7, and Perth and Brisbane 13 and 14 respectively. For many temporary residents, the LAFHA facilitates their move into the country and can go some way to redressing the significant expenses they face when relocating to a new country as a temporary resident, including the increased costs of living including food and accommodation - costs that might otherwise be prohibitive.

In addition the LAFHA also compensates for the fact that temporary residents who are working in Australia, for example on a 457 visa, are not eligible for many benefits that are available to permanent residents, including but not limited to:

- subsidised private health insurance cover
- family tax benefit
- childcare benefit
- maternity allowance
- baby bonus, and
- subsidised public schooling.

The denial of these benefits applies notwithstanding that these employees are paying taxes in Australia towards social benefits which they are not able to receive.

Woolworths urges the Government to recognise the role the LAFHA plays in attracting skilled professionals to Australia. Rather than restricting the LAFHA in a manner which effectively excludes

³ Ibid., pp106-7.

⁴ Economist Intelligence Unit, *Worldwide Cost of Living Survey*, 2011.

temporary residents, we believe there are alternatives the Government could consider to ensure that it is used as intended, such as:

- placing a time restriction during which an individual can access the LAFHA , for instance two years, and/or
- placing a cap on the maximum claimable allowance per year, either a dollar amount or percentage of pay. The current LAFHA rules already place caps on the amount that can be paid for food as part of a LAFHA. The Government could also place restrictions on the amount that can be sacrificed for accommodation – this would go a long way to pulling back the amount of LAFHA's that are currently being provided and addressing any abuse of the system.

Such reforms would facilitate workforce flexibility and ensure Australia remains an attractive place for skilled migrants to locate to, while still limiting the benefit to real costs incurred during an initial transition period.

Transitional measures

Should the reforms progress, we are concerned about the proposed timeframe for implementation. A number of our employees who are temporary residents will no longer be eligible for benefits under the proposed system. For many of these international recruits, they have made decisions about their employment in Australia based on a remuneration package which would be taxed in accordance with the living away from home benefit. Additionally, upon moving to Australia many have made lifestyle decisions, for instance signed rental agreements, based on their current level of income.

In this regard we suggest that the Government consider grandfathering the existing LAFHA rules to those temporary residents that were on a temporary work visa as at 29 November 2011 (the date that the proposed changes were announced) or who had signed an employment contract to work in Australia before that date. The grandfathering would cease upon the expiration of their work visa.

Alternatively, if the Government is not prepared to grandfather the current LAFHA rules for these individuals then, at the very least, some form of transitional period should be considered. Many temporary residents may face significant short-term financial difficulties if their income is to change at short notice. For instance, many employees may be locked in to residential leases for the next 12 months based their budgeting on their current remuneration package. They may also face family disruptions, for instance moving to a different accommodation may see their children forced to change schools, in addition to the financial implications such as breaking leases and moving house. A transitional period to allow temporary residents to transition to the new rules would help ensure families are not unduly impacted at short notice before they have an opportunity to adjust their financial situation.

5 Conclusion

Thank you for the opportunity to comment on these proposals. Woolworths is committed to delivering a world-class retail offer to customers. This can only be achieved through having the best possible team in place and investing in local talent. However, the breadth of experience that can be gained from international retailers is important to ensure our business continues to develop, innovate and keep in step with the global retail environment. Providing a reformed FBT system that provides reasonable allowances for temporary residents would be the best possible outcome of this review.