
EXPOSURE DRAFT EXPLANATORY MATERIALS – BETTER TARGETING OF
THE ZONE TAX OFFSET

EXPOSURE DRAFT

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Glossary

The following abbreviations and acronyms are used throughout this explanatory memorandum.

<i>Abbreviation</i>	<i>Definition</i>
DICTO	Dependant (Invalid and Carer) Tax Offset
FIFO	Fly-in fly-out or drive-in drive out employees
FBTAA 1986	<i>Fringe Benefits Tax Assessment Act 1986</i>
ITAA 1936	<i>Income Tax Assessment Act 1936</i>
ITAA 1997	<i>Income Tax Assessment Act 1997</i>
ZTO	Zone Tax Offset

Chapter 1

Better targeting of the Zone Tax Offset

Outline of chapter

1.1 Schedule # to this Bill amends the *Income Tax Assessment Act 1936* to ensure that the Zone Tax Offset (ZTO) is appropriately targeted to people genuinely living in the designated geographical zones, by limiting access to the offset to those people whose normal place of residence is within a zone and by removing access to those people whose workplace is located within a zone.

1.2 This ensures that the ZTO is appropriately targeted to those people genuinely living in the designated zones. It excludes those people who work in the zones but fly or drive into those zones from their normal residence (located outside of the zones). Those people are assessed as residing at their normal residence and not their residence while working.

Context of amendments

1.3 The ZTO is a non-refundable tax offset available to taxpayers who reside in specified remote areas. The ZTO, when introduced in 1945, was intended to compensate recipients for the disadvantages of living in remote areas including distance, uncongenial climate and the higher cost of living.

1.4 There are two designated zones for claiming the ZTO, Zone A and Zone B, as well as “special areas” (representing particularly isolated areas) within these zones. Claimants of the ZTO are entitled to a base amount per year of \$338 in Zone A, \$57 in Zone B, \$1,173 in the special areas, as well as a 20 per cent loading (for Zone B) or 50 per cent loading (for Zone A and special areas). Loading is based on relevant dependency offsets if they are eligible.

1.5 Section 79A of the *Income Tax Assessment Act 1936* (ITAA 1936) provides that to be eligible for the ZTO, a taxpayer must reside or work in a specified remote area for more than 183 days in an income year.

1.6 The residency test does not require a ZTO recipient to spend 183 days continuously in the relevant zone. As a result, the current law allows fly-in fly-out or drive-in drive out (FIFO) workers to claim the

offset if they spend more than a total of 183 days in the zone for the year. This is the case even when their normal residential address is not located within a zone.

1.7 This is inconsistent with the intention of the ZTO which is designed to compensate for the difficulties associated with living in a remote area. When enacted, the ZTO could not anticipate that people living in capital cities, flying into and out of the relevant zones for their employment, would have an entitlement to claim. Further, many FIFO employees are compensated by their employer for their out of pocket expenses and other adversities associated with their workplace being located in a remote area. Providing additional monetary compensation in these circumstances is not an appropriate use of the ZTO.

1.8 Recent changes to offsets have made the Dependant (Invalid and Carer) Tax Offset (DICTO) part of the ZTO if they meet the eligibility requirements for accessing the DICTO.

Example 1.1

Taxpayers who have a spouse who is genuinely unable to work due to invalidity or carer obligations are eligible for the DICTO. Affected taxpayers are able to access an additional 20 or 50 per cent of the DICTO entitlement as a component of their ZTO. For example, Matt and Leila live in Darwin in Zone A. Matt travels to Kununurra (Zone A special area) for work on a FIFO basis and Leila stays at home where she cares for Matt's disabled father in their residence.

Matt is able to claim the ZTO for Zone A, but not for the Zone A special area where he works. Matt is also able to claim the DICTO as Leila is unable to work due to her carer responsibilities caring for Matt's father.

Summary of new law

1.9 Under the new law, FIFO employees (within the meaning of section 31E of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA 1986)) will be taken to be a resident of the area incorporating their normal residence (within the meaning of that section) rather than being considered a resident of the area incorporating their place of employment should that area be located within a Zone or a special area of a Zone.

1.10 However, where a FIFO employee travels from a zone to a workplace outside of the zone, these employees will retain their entitlement to ZTO provided that they meet the other eligibility requirements of the ZTO including living in a zone for a total of 183 days.

Comparison of key features of new law and current law

<i>New law</i>	<i>Current law</i>
Where a person's normal residence is not within a prescribed area, they will be unable to claim the ZTO.	The ZTO does not require that a person's normal residence is within a prescribed area.

Detailed explanation of new law

1.11 In order to ensure that the offset is not claimed by people who work in remote areas, but who ordinarily live outside of those areas, eligibility for the ZTO will be restricted. Under the new law, to be eligible for the ZTO, a taxpayer's normal residence must be within a prescribed area (zone). *[Schedule #, item 1 to 11, subsection 79A(2), paragraphs 79A(2)(b) and (c), subsection 79A(2AA), paragraphs 79A(3B)(a) and (b), subparagraphs 79A(3B)(d)(i), (ii), 79A(3B)(e)(i), 79A(3B)(e)(v), subsection 79A(3C), paragraphs 79A(3C)(a) and (b) of the ITAA 1936]*

1.12 The restriction will link eligibility for the ZTO with the definition of FIFO employee contained in section 31E of the FBTA 1986. *[Schedule #, item 12, subsection 79A(4) of the ITAA 1936]*

1.13 Under section 31E of the FBTA 1986, an employee is considered to be a FIFO employee if, on a regular or rotational basis, they work for a number of days and then have a number of days off (but not the same days in consecutive weeks) and on completion of their working days, they fly or drive from their usual place of employment to their normal residence. The distance travelled is not conducive to travelling to and from their normal residence to work at the end of each working day. Following completion of their days off, they then return to their place of employment. Further, this basis of work must be customary for employees performing similar duties in that industry and it would be unreasonable for employees to travel between their usual place of employment and their normal residence on a daily basis on work days.

Example 1.2

Jonte is an engineer who lives in Darwin (located within Zone A) and travels to Kununurra in Western Australia (located in a Zone A special area) where he is employed in the mining industry. The distance between Darwin and Kununurra is approximately 830km. It takes Jonte 10 hours to drive to work from his normal residence in Darwin. As such, Jonte drives to Kununurra, completes a fourteen day shift at the mine and drives back to Darwin at the end of his working shift where he remains for sixteen days.

Under the existing law, Jonte would be able to claim ZTO for the Zone A special area of Kununurra, even though he lives in Darwin because he is in Kununurra for greater than 183 days in an income year. As a result of these changes, Jonte is no longer able to access the ZTO special area loading payment because he is a FIFO worker with his normal residence outside of the prescribed area even though, as a result of his employment, he spends more than 183 days per year within a prescribed special area. Jonte is still able to claim ZTO as his normal place of residence is in Darwin but he cannot access the special area Zone A.

Example 1.3

Levi is an engineer who lives in Adelaide. He flies to Alice Springs for twelve day shifts at an engineering firm and then travels back to Adelaide for his days off (which vary between four and eight days in a row). As Levi does not have his normal residence within a prescribed zone, even though he is in Alice Springs for greater than 183 days, Levi is unable to claim the ZTO.

Application and transitional provisions

1.14 The measure in this Schedule will apply from the 2015-16 year of income and later years of income. *[Schedule #, item 13]*