

**Consultation**

*Fringe Benefits Tax (FBT) Reform living-away-from-home benefits*

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**Are you submitting on behalf of your Company**

*Yes*

**Do you want your submission to be confidential**

*No*

**Accessibility Statement**

*Yes*

**Submission files****Support files****Submission text**

*Concerned individuals who contacted the Treasury last week were told that a press release and exposure draft legislation in relation to LAFHA reform would be released on 14 May 2012 to clarify the chaos caused by Wayne Swann's less than transparent Budget Paper 2. This has not materialised, leaving worried 457 workers and their families in the dark once again.*

*However, I have no doubt that this is as a result of various legal firms, accountancy firms and foreign offices, pointing out the obvious illegality of targeting 457 workers in an immediate salary grab whilst affording Australian workers the obviously required transitional period to re-arrange their existing unbreakable financial and employment obligations.*

*The source of the illegality is the breach of Australia's tax treaties with other nations, all of which contain non-discrimination provisions applicable to the treatment of income tax and FBT. The wording in all such treaties is substantially as follows:-*

*?Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected.?*

*The reforms breach all of these treaties because, for the first two years, only foreign workers under existing arrangements will be required to show that they maintain a home for their own use in Australia. Australians under existing arrangements will not be required to do this*

*until July 2014.*

*The point has nothing to do with the benefits received or not received by foreign workers living in Australia.*

*There has also been a spectacular failure to follow government guidelines in relation to consultation with stakeholders:*

*?Policy agencies need to?provide feedback on how they have taken the consultation responses into consideration.?*