

**Consultation**

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

**Name**

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

*No*

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

*No*

**Accessibility Statement**

*Yes*

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

*Dear Treasury,*

*I am writing with regards to the recently proposed changes to the LAFHA legislation put forward by Mr. Wayne Swan in a draft exposure this past week.*

*I believe the proposed legislation breaches Article 23 (Non-Discrimination) of the US/Australia Income Tax Treaty, which states that:*

*(1) Each Contracting State in enacting tax measures shall ensure that:*

*(a) citizens of a Contracting State who are residents of the other Contracting State shall not be subjected in that other State to any taxation or any requirement connected therewith which is more burdensome than the taxation or connected requirements to which citizens of that other State who are residents of that other State in the same circumstances are or may be subjected...*

*With regards to the phase out of existing LAFHA arrangements, the proposed legislation explicitly discriminates between Australian and non-Australians (not notably 457 Visa Holders) as to who is eligible for the two year transition arrangement, despite the fact that these two classes of workers might otherwise be in the exact same working conditions and are all considered from an ATO perspective to be "resident for tax purposes".*

*I believe the proposed distinction between these two groups to be fundamentally discriminatory. I also believe the legislation intentionally targets a working class of foreign nationals for special taxation in contravention of Australia's treaty obligations.*

*I urge you to reconsider the proposed legislation and ensure that all parties considered "resident for tax purposes" are treated equally under law.*

*Best Regards-*

*Chris Paulson*