



ASSISTANT TREASURER

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**PRESS
RELEASE**

ADDITIONAL CERTAINTY FOR THE TAXATION OF OVERSEAS-BASED EMPLOYEES

The Assistant Treasurer, Senator Nick Sherry, has moved to provide additional clarity on specific issues raised by industry regarding the implementation of changes to the taxation of Australian residents employed overseas.

The measure was announced in the 2009-10 Budget and was enacted with the support of the Opposition in June 2009.

Today's announcement details the procedures relating to the lodgement of tax returns by Australians working overseas and certain fringe benefit tax (FBT) arrangements, with the latter timed to coincide with the commencement of the new FBT year today.

The 2009-10 Budget measure means that from 1 July 2009, the foreign employment income of most Australians working overseas was no longer exempt from Australian income tax. It is instead included in the assessable income of the employee and subject to the appropriate marginal tax rates. The measure also brought overseas based Australian employees into the FBT base for the first time.

"These measures were introduced to ensure Australian workers who earn income overseas do not have an unfair advantage over workers who earn income and pay tax in Australia," the Assistant Treasurer said.

"Today I am announcing further details on how the implementation of this measure ensures that there is no double taxation of Australians working overseas."

"I am also announcing that the operation of the current FBT exemption for fly-in fly-out arrangements that apply for domestic arrangements will be maintained and applied to Australian workers in similar situations involving international work."

"The measures follow extensive consultation with industry and the Tax Office."

Simple steps in place to ease compliance

"Under the Budget measure, Australians working overseas will now be able to claim a Foreign Income Tax Offset for the foreign income tax paid on those amounts now included in their assessable income," the Assistant Treasurer said.

"I can confirm today that these taxpayers will not be required to lodge a foreign tax return to demonstrate and claim amounts of foreign tax paid."

"All they will be required to do is to keep their normal pay slips, assuming they identify amounts withheld, and under our self-assessment regime these pay slips will only need to be provided if the Tax Office undertakes an audit."

“This simple process will ensure that compliance costs are minimised, there will be no double taxation and that these Australian employees will get an offset for any foreign tax paid.”

“In drawing up the original legislation, we were also aware other countries conduct their financial affairs by calendar year and there is a process in place to avoid any confusion with our financial-year accounting.”

“Foreign tax offsets claimed against Australian tax should be referable to income derived in the Australian income year. Where the financial year of a country differs from Australia’s, such as a calendar year, taxpayers should apportion their foreign income and foreign income tax offsets.”

Fringe benefits tax arrangements

“The general application of FBT to overseas based Australian employees is appropriate as it ensures there is consistent treatment of employee remuneration regardless of whether it is received as cash or as a non-cash benefit,” the Assistant Treasurer said.

“However, there have been some concerns expressed about the treatment of fly-in-fly-out arrangements that are common in the mining sector for example.”

“Current judicial and Tax Office interpretive decisions have found, having regard to the facts and circumstances of particular cases under review, that flights to and from home and domestic remote mining worksites are generally considered “otherwise deductible” for employers when determining FBT liabilities.”

“I have worked with stakeholders and the Tax Office on how the law would be applied to flights to and from remote overseas mining worksites, including analysing a range of scenarios provided by key industry operators.”

“Following this process I can announce that the Tax Office has indicated that there is no impediment to the “otherwise deductible” rule that applies within Australia also being applied to overseas fly-in/fly-out arrangements that are factually similar in nature other than the difference of one being domestic and one being international.”

“With the end of the 2009-10 FBT year yesterday, and the start of the new FBT year today, this outcome will assist in providing greater certainty to impacted businesses and their advisors.”

“Of course, we have a self-assessment tax system in Australia and taxpayers, if they have any uncertainty about their exact situation should seek guidance directly from the Tax Office.”

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