



The Manager
International Tax Unit
International Tax and Treaties Division
The Treasury
Langton Crescent
PARKES ACT 2600

Attention: Greg Wood

Dear Greg

I write in respect of the following matter which appeared in Budget Paper No. 2.

Improving fairness and integrity in the tax system – better targeting the income tax exemption for employment income earned by Australians working overseas

Revenue (\$m)

	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>
<i>Australian Taxation Office</i>	-	-	215.0	225.0	235.0

The Government will better target the income tax exemption for foreign employment income, with effect from 1 July 2009. The exemption will apply to income earned as an aid worker, a charitable worker, under certain types of government employment or on projects that are in the national interest. This measure will have an estimated gain to revenue of \$675.0 million over the forward estimate period.

The measure forms part of a package of measures to improve fairness and integrity in the tax system.

Currently, certain foreign employment income earned by Australians working overseas for a continuous period of 91 days or more is exempt from income tax. The original intent of this measure was to relieve double taxation, however, in practice little foreign tax may actually be paid on the foreign income concerned.

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Instead, foreign employment income will generally become taxable and taxpayers will be entitled to a foreign income tax offset for foreign tax paid on the foreign employment income. This will relieve double taxation for those individuals.

The Byrnegut Group provides underground contract mining services within Australia and in a number of other countries. During the last 5 years we have worked in:

- Burkina Faso
- Canada
- Democratic Republic of Congo
- Indonesia
- Ireland
- Kazakhstan
- New Zealand
- Saudi Arabia
- South Africa
- Tanzania
- USA
- Zambia

Annual turnover is around AUD 700 million, of which about a quarter is generated offshore. Our typical offshore business model involves a core group of Australian expatriates who lead and train a larger number of national workers (usually about 5 nationals per expat).

Contracts normally run between one and four years and the expats are employed on a fly-in fly-out basis. Rosters range from 4 weeks on and 1 week off to 8 weeks on and 2 weeks off.

We deduct tax from employee wages as required by law in the host countries and remit it to the relative authorities. In some cases, the tax paid on behalf of the employee is similar in total to equivalent earnings in Australia (e.g. Indonesia). In others, the tax paid is less (e.g. Kazakhstan where tax is levied at the flat rate of 10%).

We employ several hundred expats in this way, generating export service income for Australia. The income earned by the expatriates is spent in Australia or contributes to the pool of savings in this country.

Once taxed in the host country, the employee wage income has been exempt from Australian tax under S 23AG.

The tenders for the contracts under which we operate were prepared on the basis that S 23AG would continue to apply to the employment of our expats. Responsibility for Australian tax rests clearly with the individuals concerned. However, it is unrealistic to suppose that we will be able to continue to staff our offshore projects to the standard required by our clients should the amending legislation not provide an avenue for exemption in appropriate circumstances where tax has already been paid.

A modified version of S 23AF comes to mind.

We are ready to provide further information should that be of value in framing the detail of the legislation to achieve the effect sought by the Government. My contact details are:

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Robert David Evers
Director

22 May 2009