



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



**HOUSE OF REPRESENTATIVES**

**COMMITTEES**

**Economics Committee**

**Report**

**SPEECH**

**Wednesday, 15 August 2012**

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

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## SPEECH

**Date** Wednesday, 15 August 2012  
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**Questioner**  
**Speaker** Owens, Julie, MP

**Source** House  
**Proof** No  
**Responder**  
**Question No.**

**Ms OWENS** (Parramatta) (16:42): On behalf of the Standing Committee on Economics I present the committee's Advisory Report, incorporating supplementary remarks, on the Tax Laws Amendment (2012 Measures No. 4) Bill 2012, together with the minutes of proceedings.

In accordance with standing order 39(f) the report was made a parliamentary paper.

**Ms OWENS:** by leave—The Tax Laws Amendment (2012 Measures No. 4) Bill 2012 is similar to other tax amendment bills in that the three schedules are designed to finetune and improve the tax law. The report being tabled today focuses on schedule 1 of the bill and relates to changes to the taxation treatment of living away from home allowances and benefits. The amendments seek to address concerns that the current concessions are being misused, resulting in a significant and growing cost to revenue.

The committee supports the schedule's intent to compensate employees for the additional expenses associated with living away from home at the request of their employer. However, the committee believes that the living away from home allowances and benefits were not designed to provide a wage subsidy for workers in certain industries and that as a general principle if employees are not incurring extra costs as a result of a temporary relocation they should not receive the tax concession.

After scrutinising the bill the committee has recommended a number of measures aimed at improving the application of the legislation. The bill aims to limit the exploitation of the tax concession. In this regard the committee supports the introduction of tightened eligibility criteria which impose a 12-month time limit per location and the maintenance of a usual place of residence within Australia. The committee noted industry's concern that the 12-month limit will not provide coverage for the duration of all projects. However, the tax concessions for living away from home allowances are intended to be temporary and are not designed to support workers who have essentially moved residence. The committee recognises the unique nature of remote construction sites and supports the decision to exempt fly-in fly-out and drive-in drive-out workers from the 12-month limit. It is recommended that drive-in drive-out workers who use their own transport to access their place of work should also be exempt from the time limit. Furthermore, it is recommended that the definition of FIFO and DIDO workers be expanded to include workers who do not meet the test of maintaining a usual place of residence within Australia. The committee has also sought clarification from Treasury on the circumstances in which the 12-month time limit will be paused.

The committee is supportive of the proposed stipulation that an employee must be maintaining a primary residence. However, it should be noted that the committee believes that the definition of an employee's 'usual place of residence' and 'ownership interest' must be broadly interpreted and clearly articulated.

To access the tax concession, all accommodation expenses will need to be substantiated, while food and drink expenses will only need to be substantiated if they exceed the amount prescribed by the Commissioner of Taxation. The committee has recommended that Treasury investigate whether there are any substantive impediments to allowing partners or spouses to incur deductible expenses on behalf of an employee where all other eligibility requirements are met.

While the intention of the schedule was to bring the majority of a living-away-from-home allowance under the income tax arrangements, 'ordinary weekly food and drink expenses' and living-away-from-home benefits are still treated under the fringe benefits regime. The committee strongly supports the single taxation treatment of a living-away-from-home allowance and believes that it may be prudent for it to continue to be treated under the fringe benefits regime.

The reforms will generally apply from 1 October 2012. However, there are transitional provisions for employees who entered into employment arrangements prior to 8 May 2012. Temporary residents who are not maintaining a primary residence in Australia will not be eligible for the transitional provisions. The committee has had

to rely on the guidance of Treasury and its advice that the schedule and the ensuing transitional provisions are compatible with Australia's human rights obligations and do not breach any double taxation agreements. Submitters were concerned that if a contract is materially altered then the transitional arrangements could be negated. The committee has sought clarification as to what constitutes a 'material variation' as a matter of urgency.

I would like to thank the organisations and individuals who assisted the committee during the inquiry through submissions or by participating in the hearing in Canberra. I would also particularly like to thank the secretariat, who had two major reports to do in the last few weeks. I did not have the opportunity earlier today to thank those who were specifically involved in the report into the Australian Charities and Not-for-profits Commission bills, but I would like to acknowledge them all now. Stephen Boyd, David Monk, Philip Hilton and Natasha Petrovich worked on the charities commission bill, and Zoe Smith and Shivaun Coughlan worked so very hard on this one. I also thank my committee colleagues for their contributions to the report.