



Australian Government

Department of Education, Employment and Workplace Relations

The Secretary
Senate Economics Legislation Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Committee Secretary

Thank you for letter of 25 May 2012 to Ms Lisa Paul, Secretary of the Department of Education, Employment and Workplace Relations (DEEWR), inviting submissions to the inquiry into the Tax Laws Amendment (2012 Measures No. 3) Bill 2012 and related Bills.

This submission addresses the proposed amendments to taxation laws to:

- Create a new final withholding tax that applies to income derived by non-resident workers participating in the Seasonal Labour Mobility Program, known as the Seasonal Worker Program; and
- Exempt clean energy payments made to recipients of payments under the ABSTUDY scheme.

The Income Tax (Seasonal Labour Mobility Program Withholding Tax) Bill 2012 will support the Australian Government's Seasonal Worker Program, a seasonal labour mobility program, which commences on 1 July 2012. The Seasonal Worker Program will contribute to the economic development of partner countries. Outcomes will be driven by:

- employer demand for seasonal labour (where the Australian workforce cannot meet this demand); and
- seasonal workers' employment experience, skills and knowledge transfer, and remittances.

The Seasonal Worker Program builds on the Pacific Seasonal Worker Pilot Scheme, which concludes on 30 June 2012. It will be open to:

- seasonal workers from East Timor, Kiribati, Nauru, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu;
- employers in the horticulture sector; and
- employers in selected regions in the accommodation, aquaculture, cane and cotton sectors for a three year trial of seasonal labour mobility arrangements.

The design of the Seasonal Worker Program is based on the following principles:

- the opportunity for seasonal workers to benefit financially from their participation in the program;
- needs basis, to provide seasonal workers to employers who demonstrate an unmet demand for seasonal workers;
- mutual contribution by employers and seasonal workers, leading to a shared investment in good outcomes for their participation;

- circular migration to provide for the return of seasonal workers in subsequent seasons and to further development outcomes; and
- protection, community and government support to maximise the potential benefits and minimise the potential for seasonal workers exploitation.

In the 2011-12 Budget the Government announced changes to the taxation of participants in the Pacific Seasonal Worker Pilot Scheme, and reduced the marginal tax rate for the non-resident seasonal workers participating in the Pilot from 29 per cent to 15 per cent for the first dollar of income up to \$37,000.

The introduction of the 15 per cent marginal tax rate for the non resident seasonal workers participating in the Pilot allowed the Government to introduce flexibilities into the Pilot arrangements that have contributed to an increased take-up of the Pilot, while ensuring seasonal workers have the opportunity to financially benefit from their participation in the Pilot; contributing to the economic development in partner countries.

DEEWR understands that the tax law provisions implemented for the Pilot will not apply to the Seasonal Worker Program. The Income Tax (Seasonal Labour Mobility Program Withholding Tax) Bill 2012 will provide for the application of a final withholding tax of 15 per cent for each dollar of income derived by seasonal workers participating in the Seasonal Worker Program.

A final withholding tax rate of 15 per cent is similar to the arrangement applied to the Pilot, which provided for the introduction of flexibilities which have been adopted for the Seasonal Worker Program.

DEEWR supports the Income Tax (Seasonal Labour Mobility Program Withholding Tax) Bill 2012. If you require further information on this aspect of the submission, please contact Mr Mark Roddam, Migration, COAG and Evidence Branch Manager,

The Tax Laws Amendment (2012 Measures No. 3) Bill 2012 includes provision at Schedule 4 to amend the *Income Tax Assessment Act 1997* to exempt clean energy payments made to recipients of payments under the ABSTUDY scheme, Veterans' Children Education Scheme, Military Rehabilitation and Compensation Act Education and Training Scheme, the transitional family farm payment and exceptional circumstances relief payment. The ABSTUDY scheme is administered by the Department of Employment, Education and Workplace Relations.

The *Clean Energy (Household Assistance Amendments) Act 2011* (the Act) specifies in Schedule 10 that clean energy payments under the *Social Security Act 1991* are exempt from income tax. However, the Act does not specify that payments made under the ABSTUDY scheme (or the Veterans' Children Education Scheme and the Military Rehabilitation and Compensation Act Education and Training Scheme administered by the Department of Veterans' Affairs) are exempt from income tax assessment.

Under existing government policy, the assistance payable under the ABSTUDY scheme is generally aligned with the equivalent mainstream income support payment, usually Youth Allowance (student), and accordingly provisions in the ABSTUDY Policy Manual generally reflect the equivalent provisions in the *Social Security Act 1991*. This would extend to the treatment of the clean energy payments. The amendment maintains this alignment and ensures that clean energy payments are treated the same for income tax purposes, irrespective of the payments being made under an Act of Parliament or under a Scheme such as ABSTUDY.

If you require further information on this aspect of the submission, please contact Ms Marsha Milliken, Group Manager, Income Support Group,

Yours sincerely

Mark Roddam
Migration, COAG and Evidence Branch Manager
Social Policy and Economic Strategy Group

7 June 2012