Kenneth Gear, Sydney
Saturday, 20th June 2009

To: **Economics, Committee (SEN)**
Mr John Hawkins,
Committee Secretary,
Senate Standing Committee on Economics

Submission opposing the proposed changes to Section 23AG of the Income Tax Assessment Act.

Dear Mr Hawkins,

I oppose the proposed changes to Section 23AG of the Income Tax Assessment Act on the following grounds:

- It will result in the loss of foreign capital which currently flows into the country via the salaries of Australians working overseas on a fly in fly out basis.

- **- It will result in a reduction of exports and greatly reduced introduction to Australian goods to the foreign operations and developing countries in which these same individuals operate.**
- **- The proposed changes discriminate against individuals not employed for charitable purposes or under certain government tasks.**
- **- The test proposed to determine the residential status of an Australian citizen working overseas for the purpose of paying income tax discriminates against married individuals.**
- **- The progress of the developing countries in which many of these workers operate will suffer greatly as a result of the departure of these workers.**

Overview:

Removal of the current 23AG ruling will not result in providing the Australian government with $ 675 million dollars of tax revenue over 4 years as submitted by Mr Swan.

On the contrary it is inevitable that it will cost the country several times that amount over the same period and at the same time make Australian registered companies with off shore operations far less competitive than their foreign counterparts. These changes also discriminate

against individuals working in the private sector as the changes do not include many government employees.

The proposal would lead to far fewer Australian overseas workers in turn resulting in reduced equipment exports.

Fair and Equitable Trade:

Mr Swan's correctly states that "Australians working overseas while residing in Australia, in a lot of cases pay little or no tax to the respective governments where they are employed".

However most OSFIFO (Off Shore Fly In Fly Out) workers would consider the lower level of tax to be a fair and equitable trade off between their working conditions, absence of benefits, long periods away from home and lack of recourse for unfair treatment or dismissal.

The majority of Australian OSFIFO's work in far from pleasant conditions. The contractual norm is 12hr shifts with the reality being closer to 13 or 14hr's per day. Add to this extremely long rosters ranging from at best 16 days on 8 off, through to 12 weeks on 1 week off, depending on the industry and location. The majority of these rosters are worked straight through from the time they get to site until the time they fly out. There are no weekends off, no public holidays, no rostered days and no early knock off's.

OSFIFO workers are required to travel long hours to reach their work locations and more often than not this travel is in their own time. Travel to the country in which they work is normally around thee days each way and in some instances can be up to a week.

OSFIFO workers do not share the same benefits that people working in Australia receive such as Employer superannuation contributions, time off for public holidays or leave loading.

OSFIFO workers unlike expatriate workers are generally on open ended contracts and as such can have their employment terminated without notice or recourse to any legal council. There is no penalty payout such as exists for most fixed term expatriate contracts. Benefits in the form of bonuses and contractual agreements can be removed or changed as the company sees fit in relation to economic climate or pressures.

Current benefits to the Australian economy under 23AG:

It would appear that the government and Mr Swans opinion is that OSFIFO workers do nothing to help the economy of Australia and as such are obviously a drain on the institutions set up for the benefit all Australian citizens.

Nothing could be further from the truth.

As Australian residents, OSFIFO workers return to Australia to spend both their rest break and their salaries. This results in the direct injection of foreign capital into the Australian economy.

This direct injection of cash by expatriate workers is equivalent to around 5 times the benefit to the economy as the same value of exported goods since it represents net foreign income, not gross.

OSFIFO workers in full time employment spend on average 66% of their life outside of Australia, this results in them having minimal to no impact on government funded systems.

The vast majority of OSFIFO workers provide their own medical coverage eliminating the need to draw on Australia's public health system. Under the current 23AG ruling any money earned by OSFIFO workers within Australia is effectively taxed at 48%, so were tax is paid it is at a far higher rate than any other Australian tax payer.

OSFIFO workers also self fund 100% of their superannuation and are not permitted to claim any tax off sets on the 48% tax they are required to pay on income earned within Australia.

While OSFIFO workers generally pay a lower tax rate than their Australian counterparts their net wage is similar and in some cases lower because their gross wage is much lower. Since most of the companies employing OSFIFO's are Australian based, this enables them to compete with others in the international market.

Consequences of removing 23AG

A number of negatives for the Australian economy will result from the removal of 23AG.

The first and most obvious of these will be the immediate departure of OSFIFO workers who currently live and spend their off shore income in Australia. Many of these people will move off shore becoming expatriates taking their income with them.

Further to this the ATO has implemented new standards by which an individual is to be assessed as being a resident for tax purposes in Australia. These changes state that if you own assets in Australia such as a house or other property this can be taken into consideration by the ATO in determining if an individual is required to pay income tax to the ATO. This will only compound the loss to the Australian economy by encouraging these same overseas workers to not only move their income spending off shore but also the monetary value of their properties & assets.

Based on an average take home wage of $100,000 it will take less than 1700 of these individuals to move their incomes off shore before MR Swan's expected $675 Million is negated. 1700 workers is only 0.2% of the 850,000 Australians (Australian Bureau of Statistics) currently in overseas employment.

As for those OSFIFO workers who have families and homes in Australia and who will not be in a position to move off shore there will be two options left open to them.

The first and most likely is to resign and move back to Australia since there would no longer be any incentive to work overseas. Apart from increasing unemployment, the result of this will again be the loss of foreign dollars flowing into the country - something that is desperately needed to boost the economy in the current economic climate - or so the government tells us.

The second option open to them is to renegotiate their salaries so that they do not lose by the higher tax. There are however a number of down sides to this, the most obvious being the disadvantages for the Australian based companies who employ the large majority of Australian OSFIFO workers.
These companies are going to be faced with the real problem of either increasing salaries to cover the increased tax if hiring out of Australia, or cease hiring Australian workers all together.

Both of these options result in a loss to the Australian economy. Increasing salaries by up to 35% to cover the Australian tax will simply make Australian owned companies less competitive and result in less foreign income from these companies. Hiring foreign nationals as opposed to Australians to staff these operations will result in less job opportunities for Australians who

would otherwise be bringing their foreign earned income into the country and who in any case under these proposals would have absolutely no incentive to do so.

Assuming that an average foreign tourist spends $5000 while in Australia then the average OSFIFO bringing home $100,000 per year is the direct economic equivalent of 20 foreign tourists.
If 1% of the 850,000 Australians (Australian Bureau of Statistics) currently in overseas employment either come home or withdraw from the country then that would be the equivalent of a reduction in tourist numbers by 170,000 per year or around 3%.

There are other likely harmful impacts to the Australian economy as a result of fewer Australians working overseas. Not least of these is the negative impact on exports since many of these OSFIFO individuals purchase industrial goods to the value of many millions of dollars from Australia for reasons of product knowledge, quality, language, service, etc. Fewer Australians working in overseas industrial environments equals reduced exports.

The proposed change to the law will result in Australian companies operating overseas being disadvantaged against many of their foreign counterparts.

Recommendation:

The intended changes to section 23AG would result in loss to the Australian economy while causing hardship not only for those who will be immediately impacted by it but also by those who will have to make up the massive resulting short fall in tax revenue. It discriminates against the private sector and the tests used to determine if an individual is a resident for tax purposes may be in breach of the sexual discrimination act 1984.

I ask that the changes to section 23AG of the income tax assessment act 1936 be utterly rejected on the grounds that it is not in the best interest of the Australian people and would have the opposite effect to that intended.