

Mr Jamie Armstrong

5 June 2009

Submission to:

Senate Economics Committee:

Senate Inquiry into the Tax Laws Amendment (2009 Budget Measures No.1) Bill 2009. (Exemption of income earned in overseas employment)

Dear Senators

As you conduct your inquiry into the proposal to change the way foreign income is taxed, I ask that you consider the following issues. I work on oil and gas drilling rigs, currently in Indonesia, and the proposed changes will have a significant impact on me.

I note the "Policy Objective" Statements 1.39 and 1.40 contained in the Explanatory Memorandum circulated by the Hon Wayne Swan MP:

1.39 The objective of the proposed amendment to section 23AG is to minimise the potential for inequity between individuals working in different countries, with different tax rates and between individuals working overseas and individuals working in Australia.

1.40 This is consistent with the general principle that individuals who are Australian residents for tax purposes should pay tax on their worldwide income.

These statements trivialise the significant inequalities in working conditions that exist between workers who earn overseas income and workers who earn income and pay tax in Australia.

To keep a job such as mine I have to deal with a number of factors on a daily basis that workers who earn income and pay tax in Australia do not.

Further, while workers who earn income and pay tax in Australia may, now and then, face such factors they have a range of protections against such factors, provided by the Australian Government, that I do not. I understand that this is part of the quid pro quo that exists for the paying of tax in Australia.

Three examples of such factors faced by Australians working in different countries are listed below. Should the Australian Government decide that it is appropriate to tax my foreign earnings then I believe that the Australian Government will have an obligation to afford me the same range of protections

in the attaining of that income as they do for workers who earn income and pay tax in Australia.

When considering these examples I hope that you come to share my view that it would not be possible for the Australian Government to offer such protections and on this basis it would not be fair or equitable to tax my earnings as though they were attained in Australia.

1. On resignation, it is common in this industry to not be paid for the last two months of work. This is itself a form of taxation but does not appear on any earnings statement.

Should the Australian government decide that I am to pay tax on my overseas earnings then the Australian Government will have an obligation to act on my behalf to recover any such lost earnings.

2. When I am on-site in the Indonesian Jungle I do not have access to emergency health care. Any health care that I do access is not claimable on medicare.

If I am to pay tax on my overseas earnings then the Australian Government will have an obligation to come to my assistance in the event of an emergency in which I require emergency health care assistance. The payment of any health care that I access overseas should then be claimable on medicare. These steps will help minimise the potential for inequity between individuals working in different countries.

3. When I am on-duty, I am on duty for extended hours and can be called out to work at any time in the 24 hour period for 28 days at a time.

There are obvious health and safety implications for such working conditions. Should I pay tax on my foreign earnings then the Australian Government will have an obligation to take an interest in my health and safety when attaining that income and will need to ensure that my working conditions are not inequitable with those experienced by individuals working in Australia.

These examples are in addition to those raised by my friends and colleagues also working in this industry, who have responded to the proposed changes with emails and letters to relevant Parliamentary Members, which I would hope you have had access to. Matters that they have raised, and which I would be happy to provide further information on if requested, include:

- We do not receive sick leave
- We do not receive holiday pay
- We do not receive superannuation
- We do not receive redundancy pay
- We do not have access to collective bargaining
- We do not have access to union representation

- We do not have access to accommodation of our choice
- We do not have a capacity to socialise during the time we are on-duty (ie for weeks, sometimes months, at a time)
- We do not have access to the usual range and standard of food.

It is not reasonable to focus only on the payment of tax as a source of inequity between individuals working in different countries because there is a wide range of inequities in conditions that exist between workers in different countries and how they attain their income.

Only when the Australian Government is prepared to consider providing equity across all elements of how individual workers derive their income will it be in a reasonable position to consider imposing tax rules such as those proposed by this draft legislation.

The Australian Taxation Office Taxation Ruling 96/15 demonstrates that the then Commissioner was prepared to account for this full range of inequitable conditions in the attaining of overseas income.

Should you wish for me to provide any additional information regarding any of the issues I have raised in this correspondence I would be happy to assist.

Yours sincerely

Jamie Armstrong