

THE IMPACT OF LAFHA CHANGES, IS NO LAUGHING MATTER

In October 2012, the concessional treatment of living-away-from-home allowances (LAFHA) changed for all taxpayers including the freight forwarding industry. For many **Employers** in this industry, these new LAFHA reforms will result in additional costs and may impact on their ability to hire overseas employees in areas where there is skill shortage in Australia. **Employees** in receipt of LAFHA who have previously accessed these benefits may not be able to do so moving forward.

What is LAFHA for the freight forwarding industry?

A LAFHA benefit arises where an employer pays an employee an allowance to compensate for additional expenses or disadvantages suffered because the employee (with or without family) has to live away from home. Typically this would relate to additional accommodation and food expenses. This situation may present itself for Australian freight forwarders when overseas head office staff are seconded to the Australian office for a period of time or when staff are relocated interstate and are living away from home.

How do the changes affect the freight forwarding industry?

The most significant changes to be aware of are:

- A new requirement that employees must be living away from **their 'normal residence' in Australia** and must maintain that 'normal residence' for their immediate use and enjoyment during the relevant period.
- The exception is employees who are working on a fly-in fly-out (FIFO) or drive-in drive-out (DIDO) basis, who will not be required to maintain a home in Australia.
- Limiting FBT concessions to actual housing costs and additional food costs.
- Restricting the maximum period for the LAFHA concession to 12 months for a particular employee in a particular location with a particular employer. After this time, the employer will be required to pay full FBT on any LAFHA allowances.

Transitional relief

There is transitional relief for employees who are permanent residents, and temporary or foreign residents who meet the following requirements:

- They had an employment arrangement for LAFHA allowances and benefits in place prior to 7.30pm on 8 May 2012 (Budget night)
- The arrangements were not materially varied or renewed between Budget night and 1 October 2012
- For temporary or foreign residents, they are maintaining a home in Australia but are required to live away from that home for work purposes.
- The 12 month limit will still apply to these employees; however it will start from 1 July 2014.
- If there is any change to the employment arrangements, or a renewal of the contract, between 1 October 2012 and 1 July 2014, the new rules apply from the date of the change or renewal.

The requirement to maintain a home in Australia will mean that foreign nationals on assignments in Australia and employees transferred interstate may lose the benefit of the concessional FBT treatment of LAFHA allowances and benefits that are commonly provided as part of their remuneration packages.

Freight forwarding industry employers will therefore need to analyse the structure of the provision of benefits and allowances to ensure they comply with the amended LAFHA laws.

