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LIVING AWAY FROM HOME ALLOWANCE

The purpose of this letter is to provide you with information for employers concerning Living Away from Home Allowance (LAFHA).

LAFHA is arguably one of the least known employee benefits permitted by the Australian Taxation Office. This stands in contrast to:

- the significant financial assistance it provides employees who are temporarily living away from home for employment, and
- the competitive edge LAFHA gives an employer because the employer can offer increased cash in hand employment for eligible employees without any increase in gross salaries or FBT liability.

LAFHA is often discarded as a legitimate allowance because there is no one reference source at the Australian Taxation Office or the Department of Immigration and Citizenship to give an employer confidence that it can be paid.

Therefore because LAFHA is managed under the Fringe Benefits Tax (FBT) legislation it is often "assumed" that it accrues an FBT liability; this is not the case. Furthermore, the word "*allowance*" also implies a requirement to increase gross pay; this is not the case; LAFHA simply reduces an employee's tax; thereby giving them a tax free payment.

In addition to this, while many payroll professionals are aware of LAFHA, few know how simple it is to implement and many mistakenly believe that an employee is not entitled to LAFHA because "*if the employee wants a job, sometimes they have to move and therefore LAFHA would not be applicable*".

LAFHA is a tax free allowance payable to all employee types in Australia and the attached document provides a LAFHA knowledgebase to provide an employer with the confidence that LAFHA is a legal allowance that when implemented, delivers tangible benefits to the employer and the employee at no cost.

Lastly, the Federal Government has announced its intent to change the eligibility criterion for LAFHA after 30 June 2012. This will require some debate, and passage through both houses of parliament. So between then and now LAFHA can be paid under the existing laws. The attached document describes the changes on the last page. Please feel free to call and discuss LAFHA with myself or one of my team.

Yours sincerely,

Ian Lindgren
Chief Executive Officer

LIVING AWAY FROM HOME ALLOWANCE

Introduction

LAFHA is an allowance paid under the Fringe Benefits Tax Assessment Act 1986, and whilst it is named an “allowance”, it is actually a tax free component of salary. It is paid in a similar way to a salary sacrifice because it reduces an employee’s taxable salary by the amount of the allowance. LAFHA is not an entitlement; it is only paid when the employer agrees to pay the allowance. All pay systems have the ability to pay LAFHA.

LAFHA is paid to an employee to compensate for additional expenses incurred and any disadvantages suffered because the employee is required to live away from their usual place of residence in order to perform their employment related duties. It is paid so long as the employer is of the view that there is an intention or expectation of the employee to return home at the end of a fixed period of employment, eg the end of a 457 Visa, or the termination of an employment contract. LAFHA will usually increase an employee’s cash in hand by between $4,000 and $6,000 each six month period.

LAFHA is often mistakenly believed to be an allowance paid only to contractors or foreign citizen employees on temporary visas, and the mistake is often centred on the fact that the employee moved to take up the employment and it was their choice to do so. However if the employee moved from “a place they call home” to a new locality to take up employment offered to them for a fixed term, then although the employee has moved of their own choice, they are away from home and intend to return home, until they make a decision otherwise.

LAFHA would cease at the end of, or part way through, the employment agreement when the employee returns home, or beforehand if the employee decides to permanently change their “home” to the new location.

Each employee’s case must be considered on its own merits by a suitably qualified individual knowledgeable in LAFHA because the application and interpretation of the FBT Act and ATO rulings are required.

The Two Components

The two components of LAFHA are:

- **The Accommodation Component**. The accommodation component is exempt from FBT where it is "reasonable" to conclude that the nature of the accommodation is such that the costs are those that the employee could reasonably be expected to incur. It is usually paid to the amount of an accommodation lease.

- **The Food Component**. The food component is paid exempt from FBT when it is paid to the amounts published by the ATO each new FBT year.

The Other Components

If an employee is eligible for LAFHA an employer may chose, at its own discretion, to pay some or all of the following items as LAFHA so long as the employer has not already paid these items in allowances:

- **Temporary Accommodation at the Home Location**. Up to 21 days.

- **Storage of Furniture**. Should an employee need to store furniture while working in Australia, the cost of that storage can be deducted from their taxable income on presentation of receipts.

- **Removal Costs**. The costs associated with removal, packing, unpacking and insurance of household effects can be claimed in on presentation of receipts.

- **Cost of Travel**. The cost of economy travel to Australia for foreign citizens, or within Australia for Australian citizens, for the employee and all dependents. This includes all costs associated with that travel such as taxis, accommodation and meals.

- **Temporary Accommodation at new Location**. Up to 21 days.

- **Utilities Reconnection**. The connection of gas, electricity and telephone services to the new home may be claimed presentation of receipts so long as it can be proved that those services were connected at the home locality.

- **Cost of Travel home at the end of the temporary Employment**. The cost of economy travel to return home for the employee/contractor and all dependents.

- **Foreign Citizens Only - Returning home while still temporarily residing in Australia**. An employee/contractor may return home any number of times a year, and subject to supplying receipts, claim 50% of the cost of travel for the employee/contractor and each of their dependents. This includes all costs associated with that travel such as taxis, accommodation and meals to and from the location.

- **Foreign Citizens Only – Schooling.** Children's' education expenses can be included in LAFHA for the tuition fees paid to an educational institution or tutor for full time education.

Primary Considerations from the References

MT 2030 states:

*Examples of employees on appointments of finite duration who will generally be living away from their usual place of residence are **foreign nationals employed in Australia on a temporary basis** and Australian residents (e.g., export consultants, diplomats, immigration officials, etc.) stationed in a foreign country for a time. Provided the appointment is for a limited period and the employee can be expected in the normal course to return to the same city or district of the home country to live, the employee may be treated as living away from his or her usual place of residence.*

How is LAFHA Eligibility Assessed?

Employers are required to satisfy themselves that an employee is eligible for LAFHA must conduct a formal assessment of each employee. That assessment, any supporting paperwork and a LAFHA declaration signed by the employee must be filed on the employee's personal file each FBT year.

PayMe Australia provides an assessment service that consists of a LAFHA Questionnaire and follow-up questions. The end result is a formal LAFHA Assessment that determines eligibility, and provides employers with the references to be confident about LAFHA, and how to administer LAFHA.

This includes 15 minutes of implementation advice with our Chief Financial Officer.

Changes to LAFHA with Effect 1 July 2012

Please be aware that the Federal Government has indicated that it will make major changes to LAFHA for implementation in 1 July 2012. These changes are yet to be debated and are not yet law, so the existing arrangements above remain in force and allow currently eligible employees to be paid LAFHA until 30 June 2012.

The intended changes have not been defined in detail, but can be summarised as follows. For an employee to be eligible for LAFHA after 30 June 2012 they must:

- Own or rent a property in a home location in Australia,
- Then being required to move temporarily by that employer, or another employer, while still maintaining the property in the home location without subletting it, and
- Renting in the new temporary location.

This will make it hard for anyone to receive LAFHA, however, it is still freely available until 30 June 2012 under the current rules. With most people able to increase their cash in hand by around $4-6,000 in the next six months with LAFHA.