



# Remote area tax concessions and payments

Issues paper

Submission to the Productivity Commission

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## About CME

The Chamber of Minerals and Energy of Western Australia (CME) is the peak resources sector representative body in Western Australia. CME is funded by member companies responsible for over 95 per cent of the State's mineral and energy production and workforce employment.

In 2017-18, the value of Western Australia's mineral and petroleum industry was \$115 billion. Iron ore is currently the State's most valuable commodity at \$61 billion. Petroleum products (including crude oil, condensate, liquefied natural gas, liquefied petroleum gas and natural gas) followed at \$26 billion, with gold third at \$11 billion. Both commodities saw an increase in value of 39 and 5 per cent respectively from the previous financial year.

The resources sector is a major contributor to the State and Australian economy, contributing to a third of the State's total industry Gross Value Added<sup>1</sup>. The value of royalties received from the sector totalled \$5.8 billion (iron ore and concentrates providing 77 per cent), accounting for 19 per cent of State Government revenue.<sup>2 3</sup>

## Context

The behaviour of long distance commuting is not unique to the resources sector. Whilst fly-in, fly-out (FIFO) and drive-in, drive-out (DIDO) workforce models is synonymous with the resources sector, long distance commuting is common to other sectors such as agriculture, education, construction, transport, government, medical and allied health services. Similar to these other sectors, the use of FIFO provides both spatial and temporal flexibility to respond to seasonal peaks and troughs in demand for goods and services. Labour mobility and flexibility has been critical in enabling labour markets to function efficiently and adjust smoothly to economic opportunities and shocks, and in turn respond to labour and skill shortages across Australia.<sup>5</sup>

In instances where adequate pools of labour exist within proximal communities, and if it is feasible from an occupational health and safety perspective, companies will generally utilise DIDO practices. This is typically on a case-by-case basis in relatively well-populated regions of the north western, eastern and south western areas of Western Australia. If there is critical mass in demand, bus-in, bus-out or ship-in, ship-out may also be used. However, as a majority of sites are remotely isolated, coupled with a broad preference by employees to reside in urbanised and coastal areas, long distance commuting via FIFO has become a common and legitimate practice. The remainder of this submission will therefore primarily reference FIFO as a descriptor of non-residential workforces and DIDO as a descriptor of residential workforces.

In-principle, this submission supports the submission made by the Minerals Council of Australia (MCA). In summary, CME supports the retention of existing fringe benefits tax (FBT) remote area concessions and exemptions (hereafter referred to as FBT arrangements) for FIFO workforce arrangements. To attract and sustain investment into Australia, there should be no increase in taxation and compliance costs imposed on the resources sector. Where relevant, this submission reinforces previous recommendations made by CME (Appendix A), and in particular, should be read in conjunction with CME's submissions to the inquiry into transitioning regional economies.

In promoting the principles of good policy and tax system design, CME supports efforts to improve labour mobility and flexibility of work arrangements to meet the needs of individual projects. In this regard, CME would welcome reform to extend the relevant FBT treatments to residential employees utilising DIDO practices. The MCA have previously made a detailed submission advocating for

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<sup>1</sup> Duncan, A., Kiely, D. and Salazar, S., *Quarterly Economic Commentary: March 2019*, Bankwest Curtin Economics Centre, Curtin University, April 2019, p. 4.

<sup>2</sup> Excludes contributions via North West Shelf grants, State taxes and levies.

<sup>3</sup> Department of Mines, Industry Regulation and Safety, *Western Australian Mineral and Petroleum: Statistics Digest 2017-18*, October 2018, p. 17.

<sup>4</sup> Atkinson, G. and Hargreaves, J., *An exploration of labour mobility in mining and construction: Who moves and why*, occasional paper, National Vocational Education and Training Research Program, June 2014.

<sup>5</sup> Mohommad, A., *Labour market adjustment to shocks in Australia*, working paper, International Monetary Fund, May 2017.

removal of FBT on all types of housing and accommodation assistance provided in remote areas<sup>6</sup>. This submission continues to reinforce these views.

## Summary of recommendations

- CME supports the use of policy and economic instruments that improve labour mobility, achieving dual objectives of meeting demand for skilled labour and the provision of flexible, attractive work and lifestyle arrangements.
- Both the sector and government have recognised when there is a skill shortage at large; reducing choice and forcing an employee to relocate can exacerbate this dilemma.
- Costs associated with FIFO are a legitimate business expense required to do business in the regions. Further to MCA's views, these expenses do not constitute genuine remuneration and should not be subject to FBT.

### Labour mobility

- CME supports flexible work arrangements to meet the needs of individual projects.
- Those working in the sector are not necessarily trading off lifestyle aspects for a financial gain.
- Maintaining freedom of choice in working arrangements for employees is crucial for businesses to remain competitive.
- CME welcomes consideration of policy levers to support increased flexibility – and choice – of residential work arrangements across all sectors.
- Sustainable improvements to affordability and liveability of the regions can only be achieved with both proper regional and town-based planning policy development, coordination and substantial investment across each tier of government.
- No undue restrictions on the ability of the sector to maintain an appropriate level of flexibility in designing and developing rosters that are safe, efficient, productive and attractive to employees.

### Fringe benefits tax

- CME welcomes reforms to simplify the *Fringe Benefits Assessment Act 1986* (Cth) (the Act) that maintains the integrity and equity of the system to tax non-cash benefits provided to employees of a genuine remuneration nature.
- Changes to the FBT arrangements should be a genuine attempt to support increased flexibility in workforce arrangements from a 'policy neutral' perspective, rather than seeking to restrict certain applications in response to populist rhetoric and political opportunism.
- CME welcomes a review of the definition of remoteness to ensure its relevance in reflecting the change in communities over time. To provide stability and certainty to employers who have the onus of compliance, the definition should be reviewed only on a periodic basis such as every second or third Census.
- CME does not support changes to existing FBT arrangements that would hinder labour market flexibility and adversely increase the cost of FIFO.
- Living away from home allowance (LAFHA) concessional treatments for FIFO should not change.
- It is misleading to suggest the FBT arrangements accords a preferential status to FIFO related expenses. Whether an employee is provided assistance with FIFO or residential DIDO (remote or non-remote as per the Act), these expenses as well as the tax paid constitutes a legitimate deduction.

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<sup>6</sup> Minerals Council of Australia, *Geographic labour mobility*, submission to the Productivity Commission, August 2013.

- Exemption for housing benefits should remain unchanged. CME supports extending accessibility of this exemption to other sectors that commonly operate in the regions and have difficulty in attracting and retaining employees.
- For simplicity and in the interest of developing the regions, CME supports extension of the exemption to other assistances with accommodation (other than the provision of housing) provided by employers in remote areas.
- Extending the LAFHA exemption to DIDO transport allowances in remote situations would address anomalies, providing policy neutrality and equitable treatment of different choices of long distance commuting arrangements.
- An extension of the FBT exemption to other forms of childcare services such as before and after school care would have a transformational impact in increasing the workforce diversity and attractiveness of relocating to the regions.

### Zone tax offsets

- The Zone Tax Offset (the offset) could be replaced with another scheme in delivering a real financial incentive to employees to relocate to regions of identified need.

### Other forms of assistance

- Revisiting the concept of Special Economic Zones or offsets for businesses with headquarters and genuine operations in the regions should be considered.
- There is scope and opportunity to utilise existing Commonwealth Rent Assistance and housing affordability programs to target support of employees working in the region.
- Transfer duty concessions or exemptions similar to the Australian Capital Territory could be explored for targeted application to the regions.

## Introduction

Before and after the major construction phase in the early 2000s, FIFO provided a competitive and productive solution to rapidly mobilise and deploy the required labour to various sites across regional, rural and remote Western Australia (hereafter referred to as the regions). FIFO enabled access to a cross section of qualifications, skills and experience across urban and non-urban labour markets locally, nationally and internationally. This labour mobility and flexibility is and will continue to be important to both companies and employees.

In particular, the Western Australian resources sector often requires appropriately skilled and experienced labour in numbers far greater than the pools available in communities close to project locations, which are often remote. Companies need to retain the ability to evaluate the specific labour requirements of individual projects, and respond to changes in internal and external factors. Consequently, there is no 'one size fits all' approach for workforce models.

CME thus supports the use of policy and economic instruments that improve labour mobility, achieving dual objectives of meeting demand for skilled labour and the provision of flexible, attractive work and lifestyle arrangements. This extends to attracting and retaining skilled labour in liveable and inclusive communities in the regions where it is viable, as well as pursuing a range of FIFO or DIDO where it is safe and sustainable. However, as projects can be ephemeral in nature or located over 150 km away from the nearest established town (Table 4 in Appendix B), there are limitations to the extent of flexibility that can be offered. In some cases, FIFO may be the only feasible option.

Having regard to the growing competition for skills and time-bound nature of projects, it is an unrealistic expectation for all employees to uproot, along with their families, to reside in specific regions. It is up to the individual to evaluate opportunities based on their personal circumstances. Similarly, it is no longer realistic for the sector to develop and maintain new towns and their associated infrastructure in perpetuity. Both the sector and government have recognised when there is a skill shortage at large; reducing choice and forcing an employee to relocate can exacerbate this dilemma. This dilemma is also common to other sectors, e.g. difficulty in attracting and retaining childcare workers, teachers, medical and legal practitioners in the regions beyond a fixed contractual term.

Instability in politics, policy, regulatory and taxation settings can increase the difficulty in reaching a final investment decision (FID) for projects that typically have longer time horizons and significant upfront capital investments. Changes in FBT arrangements may create economic uncertainty and have unintended consequences on Australia's global competitiveness. Stability is widely accepted as a key decision criterion in determining investment attractiveness of a country.

There also appears to be a pervasive misperception by some stakeholders regarding the perceived misuse of these FBT arrangements. Costs associated with FIFO are a legitimate business expense required to do business in the regions. Further to MCA's views, these expenses do not constitute genuine remuneration and should not be subject to FBT.

## Labour mobility

The demand for qualified and skilled employees, influenced by interstate and intrastate migration flows of labour between the resources sector and government-funded infrastructure projects, has led to a tightening labour market heavily reliant on flexibility and adaptability. Through successive major construction phases in Western Australia, the sector has developed a workforce model to attract and retain labour in the most safe, adaptive and competitive manner. The resulting model adopted is a combination of both residential and FIFO.

The composition of residential and FIFO varies between commodities, sites and companies, depending on the remoteness, stage of the project and the type of skills and qualifications required. Different types of shifts, rosters and employment are needed across greenfields construction, brownfields operation, production, maintenance, major shutdowns and expansions. FIFO enables

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<sup>7</sup> Similar to the definition commonly used by the Department of Primary Industries and Regional Development and the Senate Standing Committees on Rural and Regional Affairs and Transport. It should not be confused with the definition of "remote" as per the Act.

retention of common labour pools within a company and their deployment to various sites across Australia as needed.

This workforce model is also strongly influenced by an employee's individual circumstances and lifestyle choices. An individual's age and lifestyle will affect the type of work arrangement they prefer and accept.<sup>8</sup> Unless the project is on a long-term operational basis and located reasonably close to an established "liveable" town, with the requisite labour numbers and capacity (skills and qualifications), it is typically uncommon for a site to be 100 per cent residential. The Standing Committee on Economics acknowledges these spatial and temporal considerations:

*"Special conditions apply during the short-term construction phase of many large infrastructure projects, as found in mining regions where large numbers of workers move into sparsely inhabited regions for short periods, before a much smaller permanent workforce take their place."*<sup>9</sup>

With respect to such variable circumstances, residential employment and FIFO may be complementary approaches where it is feasible, but may not necessarily be supplementary. Taxation settings are only one aspect of this complex approach in managing mobilisation of large workforces across Western Australia. In a volatile environment driven by commodity pricing and costs, FIFO is essential to meet the sector's adaptive needs across a project's lifecycle. CME supports flexible work arrangements to meet the needs of individual projects.

### Flexibility and access to talent

In a gradually tightening competitive labour market,<sup>10</sup> offering a range of work arrangement options is paramount. Companies have increasingly sought to provide employees, where possible, with a degree of choice regarding work arrangements in line with their individual circumstances and preferences. If they choose not to do so, employees cannot be forced to live in specific regions. Principally, individuals should be able to choose what job they do, who they work for and where they reside.

FIFO enables a greater sized labour pool, whilst also enabling employees to maintain their existing social, cultural and lifestyle preferences. In 2015, CME collaborated with Ipsos to survey the demographics, preferences, satisfaction and wellbeing of the resources sector workforce in Western Australia.<sup>11</sup> The survey sampled 2.7 per cent of the workforce, with the following findings:

- 70 per cent of FIFO employees are in families with children;
- 74 per cent of FIFO workers would not continue their role if it changed to residential. The reasons cited included preferring an urban lifestyle, family reasons (schooling availability and limitations for their partner's career – this is significant as 73 per cent of respondents' partners are working) and lack of regional infrastructure; and
- Financial incentive and lifestyle preference were ranked highest as reasons for an individual employee's choice of work arrangement, i.e. FIFO, residing locally in the regions or residing locally in the Perth metropolitan area.

This suggests those working in the sector are not necessarily trading off lifestyle aspects for a financial gain. Rather, based on individual circumstances it is possible to achieve both lifestyle preference and financial gain across the different work arrangements.

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<sup>8</sup> Commission for Occupational Safety and Health, *Code of Practice: Mentally healthy workplaces for fly-in fly-out workers in the resources and construction sectors*, Department of Mines Industry Regulation and Safety, April 2019, p. 20.

<sup>9</sup> Parliament of the Commonwealth of Australia, *Advisory report on the Tax Laws Amendment (2012 Measures No. 4) Bill 2012*, House of Representatives Standing Committee on Economics, August 2012, p. 15.

<sup>10</sup> Reserve Bank of Australia, *Statement on Monetary Policy*, February 2019.

<sup>11</sup> CME, *Key findings of the CME workforce study*, survey by Ipsos, September 2015.

Research that is more recent suggests for millennials entering the workforce, flexibility to travel, maintain a work life balance and access to technology are attractive employment options.<sup>12</sup> <sup>13</sup> Of those under 30 years of age living in the regions, 41 per cent indicated they were planning to move<sup>4</sup>, i.e. the “flight of youth”.<sup>15</sup> In a globalised environment where networks and career opportunities are increasingly interconnected, maintaining freedom of choice in working arrangements for employees is crucial for businesses to remain competitive.

The challenge of incentivising employees to relocate, particularly to specific regions, is an issue experienced across all sectors of the economy.<sup>16</sup> Changes to remote area tax concessions and payments will need to be substantial to incentivise prospective employees to relocate themselves and their families permanently. To do so, however, is likely to have high transitional costs and significant budgetary impacts.<sup>17</sup> As discussed below, many employees choose to move to areas of higher amenity to access improve health, education and other quality services for their families.

Moreover, changes to taxation treatments may have an unintended impact on employers using a variety of cash and non-cash benefits as a remuneration package to incentivise labour mobility. Due to variations in company capacity and what may be considered customary within and across sectors, not all employers can offer attractive incentives for residential relocation and retention. As a result, there is significant geographic and sector variation in the remuneration arrangements offered for residential employees across the regions. CME welcomes consideration of policy levers to support increased flexibility – and choice – of residential work arrangements across all sectors.

## Regional amenity

As exemplified by the current Senate inquiry, a lack of connectivity and inequality exists in accessing infrastructure, education, human capital, workforce skills and employment arrangements in the regions. Funding towards communities in the regions is often overshadowed by priorities in urban cities. Amenity (physical infrastructure and cultural characteristics) is a key influence on people's decision to live in the regions.<sup>18</sup> <sup>19</sup> Failing to invest in amenity, fails to entice people to reside in the regions. Typical challenges that affect actual or perceived amenity in the regions may include:

- Limited availability of land with service connections;
- Lack of housing affordability, both rental and ownership. For example, housing (rates and charges, rents, cost of utilities, credit charges and insurance) in the Pilbara have a Regional Price Index (RPI) of 120.6 in comparison to a baseline of 100.0 in Perth;<sup>20</sup>
- Deficiencies in housing options and quality;
- Pressures of a higher cost of living. For example, food commodities in the Kimberley have a RPI of 112.4;
- Difficulty in obtaining finance;

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<sup>12</sup> PwC, *Millennials at work: Reshaping the workplace*, December 2011; PwC, *PwC's NextGen: A global generational study*, April 2013; and KPMG, *Meet the millennials*, April 2017.

<sup>13</sup> Buchanan, J., Baldwin, S. and Wright, S., *Understanding and improving labour mobility: A scoping paper*, occasional paper, National Vocational Education and Training Research and Evaluation Program, October 2011, p. 20.

<sup>14</sup> Department of Primary Industries and Regional Development, *Living in the regions 2016: Insights report*, December 2017.

<sup>15</sup> Forth, G., *Where have the people gone? Developing population strategies for Australia's declining regions*, 2020 Vision: Australia's Demographic Future, 11<sup>th</sup> biennial conference, Australian Population Association, October 2002.

<sup>16</sup> Department of Training and Workforce Development, *2017 Goldfields labour market review*, October 2018, p. 5; and Department of Training and Workforce Development, *2018 Great Southern and Esperance Ravensthorpe labour market review*, May 2019, p.11.

<sup>17</sup> Industry Commission, *Impediments to regional industry adjustment*, vol. 1, report no. 35, December 1993, p. 224.

<sup>18</sup> Parliament of the Commonwealth of Australia, *Regions at the ready: Investing in Australia's future*, final report, House of Representatives Select Committee on Regional Development and Decentralisation, June 2018.

<sup>19</sup> Parliament of the Commonwealth of Australia, *Building up and moving out*, final report, House of Representatives Standing Committee on Infrastructure Transport and Cities, September 2018.

<sup>20</sup> Department of Primary Industries and Regional Development, *Regional price index 2017*, October 2017.



- Lack of childcare services, which is discussed in further detail below;
- Perceived lack of training and higher education paths. For example, four in ten of those of working age living in the regions identified limited options as a key reason to move elsewhere, whilst 51 per cent of 30 to 39 year olds reported moving for better schooling options for their kids;
- Relative lack of available government services. For example, health (hospital, dental, optical and pharmaceutical services) in the Pilbara have a RPI of 11.6;
- Quality of the standard of mobile telecommunications and internet services;
- Coastal and urban drift of populations,<sup>21</sup> with widespread decline of rural populations – a trend that has been occurring for more than a century; and
- Changing expectations and attitudes of communities and local governments towards FIFO practices, e.g. symptoms of the not-in-my-backyard syndrome.

Resource sector companies have made substantial investments in projects to improve township services and amenity across the regions. Depending on the relative amenity and proximity of communities to nearby operations, companies have and will continue to invest in improvements to physical and social infrastructure to address some of the challenges outlined above. In addition, there remain instances of companies continuing to provide power and water utilities to townships. These community investments are central to company strategies to attract and retain talent, but importantly are separate. These infrastructure and services costs borne by companies are over and above the costs of providing employees with accommodation (which could be in the form of company-provided housing and/or incentives), travel, vehicles, meals and other personal services.

It has been suggested in periods of rising economic growth and employment, regional towns with a higher amenity can experience stronger rates of inbound migration:<sup>22</sup> This has not always been the case, however, and the same communities inevitably grapple with high volumes of outbound migration when economic conditions – principally employment – deteriorate. For example, most mining regions with a lower diversity in natural assets (e.g. agriculture, mining and tourism) or high cost structures have below average adaptive capacity in adjusting to the cyclical nature of commodity prices:<sup>23</sup>

Sustainable improvements to affordability and liveability of the regions can only be achieved with both proper regional and town-based planning policy development, coordination and substantial investment across each tier of government.<sup>24</sup> The sector recognises the constructive and collaborative contribution it can and will continue to make to these processes; however, this cannot replace the core role of government.

## Occupational health and safety management

Workforce health and safety is the highest priority in the Western Australian resources sector. Companies adopt a risk-based approach to managing employee fatigue, in line with the requirements of the Code of Practice on working hours (the Code)<sup>25</sup> This Code requires the consideration of a variety of factors, including but not limited to the following:

- Journeys in travelling to and from work;
- Shifts, e.g. type of work tasks, rotation, duration of working and resting hours for recovery and recreation; and

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<sup>21</sup> Regional Australia Institute, *Pathways to settlement: Population mobility in regional Western Australia from 2001 to 2011*, research report, June 2014.

<sup>22</sup> Lawson, J. and Dwyer, J., *Labour market adjustment in regional Australia*, research discussion paper no. 2002-04, Economic Group, Reserve Bank of Australia, June 2002.

<sup>23</sup> Productivity Commission, *Transitioning regional economies*, study report, December 2017, p. 137.

<sup>24</sup> Stilwell, F., *Australian urban and regional development: The policy challenge*, research paper no. 8, Department of the Parliamentary Library, June 1994, pp. 22 – 24.

<sup>25</sup> Commission for Occupational Safety and Health, *Code of Practice: Working Hours*, Mining Industry Advisory Committee, April 2006, section 2.5, step 1.1.4, p. 10.

- Roster lengths, e.g. ratio of work and non-work days to ensure employees can recover from compressed roster arrangements.

Typically, company policies on fatigue management identify working over 14 hours, inclusive of travel to and from the site, to be a high risk. As the sector makes widespread use of 12-hour shifts with an additional 30-minute allowance for handovers, this leaves a maximum allowable travel time of 45 minutes for employees choosing to long distance commute via DIDO each way. Many sites are also located over 100 km from an established town, and in particular, there may be limitations to road accessibility and quality (seasonal flooding typical of northern Australia or bush fires in south western Australia). Having regard to these considerations, DIDO may not always be a feasible arrangement.

There is an array of roster arrangements available to employees depending on the site's operational requirements, individual's preferences and compliance with the Code. Since the early 1990s, compressed roster arrangements have evolved to meet changing expectations and conditions. As mentioned above, this has resulted in a combination of residential DIDO and FIFO. For example, one member company has over 80 different roster arrangements across their business. This provides flexibility to employees and employers. The Standing Committee on Economics acknowledges this need for flexibility:

*"While in Western Australia the number of workers driving their own vehicles to mines is probably minimal, the circumstances in Queensland are different where the drive in for a several day roster may be quite achievable. Where possible, maximum flexibility should be allowed for employers and employees so that work arrangements suit the needs of workers."*<sup>26</sup>

Changes to existing FBT arrangements could reduce this level of flexibility offered to employees and may have an unintended consequence on the health and safety management of employees (both work and non-work). It is important there are no undue restrictions on the ability of the sector to maintain an appropriate level of flexibility in designing and developing rosters that are safe, efficient, productive and attractive to employees.

## Fringe benefits tax

Further to the Board of Taxation's current review into compliance costs associated with FBT obligations, the Act places an inordinate burden on employers to comply. Since its introduction, compliance has been administratively complex and costly.<sup>27</sup>

*"An unusual feature of FBT was its imposition on employers rather than on employees, though New Zealand had done the same in 1984. But the most pronounced characteristic of FBT is its complexity, which paradoxically has come about through the designers' desire to impose a tax which will give its administrators a quiet life."*<sup>28</sup>

The Act in its current form does not promote good policy and tax system design. CME welcomes reforms to simplify the Act that maintains the integrity and equity of the system to tax non-cash benefits provided to employees of a genuine remuneration nature.

## Perceived misuse

There appears to be a pervasive misperception by some stakeholders regarding the misuse of FBT arrangements for FIFO associated business expenses. This is further compounded by, and at times emotional, impressions that FIFO work practices have solely led to the demise of towns in the regions.

<sup>26</sup> Parliament of the Commonwealth of Australia, *Advisory report on the Tax Laws Amendment (2012 Measures No. 4) Bill 2012*, House of Representatives Standing Committee on Economics, August 2012, p. 16.

<sup>27</sup> Carmody, G., *Fringe benefits tax: Time for a rethink*, research studies no. 29, Australian Tax Research Foundation, 1998.

<sup>28</sup> Burgess, P., *Reforming fringe benefits taxation*, University of New South Wales Law Journal, vol. 10, 1987, p. 1.

The introduction of FBT is only one driver, amongst many, in contributing to this shift. There are several drivers cited by governments and academia:<sup>29 30 31 32</sup>

- High start-up, maintenance and closure costs of developing company towns – The cost of supporting a permanently settled township is an estimated \$1 million to provide a company house and associated management, compared with an annual cost of \$40,000 for a FIFO worker<sup>3</sup>;
- Costs of providing social overhead capital and social divisions in isolated towns;
- Improvements in technology – safer, more efficient and available air transport; better telecommunications; productivity gains and shortening of time taken to construct new projects;
- Changes in corporation investment decisions towards mines with shorter lives;
- Volatile and declining commodity prices;
- Industrial disputes; and
- Regulation favouring lower environmental footprints.

The practice of FIFO is a resulting combination of many internal and external factors. Although the introduction of FBT may have contributed to this shift, it is by no means the primary driver of why it has become the preferred workforce arrangement adopted by many individuals today. Further to MCA's views, CME acknowledges current FBT arrangements may skew the provision of housing towards employer owned and leased accommodation, rather than employee sourced rental accommodation. A number of companies continue to own and maintain residential property portfolios in the regions.

It is important to note changes to the FBT arrangements should be a genuine attempt to support increased flexibility in workforce arrangements from a 'policy neutral' perspective, rather than seeking to restrict certain applications in response to populist rhetoric and political opportunism. In turn, a suite of development policies across departments and tiers of government should accompany changes to FBT to address the limited supply of available land, infrastructure and services in the regions.

## Remote area concessions and exemptions

Remoteness under the Act is defined in reference to 1981 Census populations. As the definition has not been updated since its introduction in 1986, CME welcomes a review of its definition to ensure its relevance in reflecting the change in communities over time. To provide stability and certainty to employers who have the onus of compliance, the definition should be reviewed only on a periodic basis such as every second or third Census.

A range of concessions apply to employees who temporarily work away from their usual residences or reside in these designated remote areas. These FBT arrangements were originally introduced to support employment in remote Australia, and provide relief in the form of exemptions or reductions in taxable value for benefits, which would otherwise be taxable for FBT purposes. This was on the basis these benefits were necessary to the working arrangements in question and therefore should not be considered of a genuine remuneration nature, or were considered necessary to attract skills to remote areas with relatively higher degrees of isolation and reduced availability of government-supported services. The provision of employee travel is not a benefit of genuine remuneration.

Removing exemptions or reducing the value of FBT concessions (Table 1) is likely to have material financial consequences on current projects and FID of future investments. With a shift to export-led growth, large cost increases arising from changes in FBT arrangements may result in job impacts, decreased production outputs and increased likelihood of mines entering care and maintenance.

<sup>29</sup> Industry Commission, *Impediments to regional industry adjustment*, vol. 1, report no. 35, December 1993, p. 225.

<sup>30</sup> Productivity Commission, *Looking back on structural change in Australia: 2002-2012*, supplement to the annual report, October 2013, p. 119.

<sup>31</sup> Marais, L., Haslam McKenzie, F., Deacon, L., Nel, E., van Rooyen, D. and Cloete, J., *The changing nature of mining towns: Reflections from Australia, Canada and South Africa*, Land Use Policy, vol. 76, July 2018.

<sup>32</sup> Storey, K., *Fly-in/fly-out and fly-over: Mining and regional development in Western Australia*, Australian Geographer, vol. 32, issue 2, 2001.

<sup>33</sup> Perry, M. and Rowe, J.E., *Fly-in, fly-out, drive-in, drive-out: The Australian mining boom and its impacts on the local economy*, Journal of the Local Economy Policy Unit, vol. 30, issue 1, 2015.

Although this may increase taxation revenue in the interim (e.g. FBT and payroll tax), the overall outcome would be damaging for the regions in where mines operate. The State and Australian economy would also receive reduced royalties and other taxes that would have been otherwise available across the life of the mine. CME does not support changes to existing FBT arrangements that would hinder labour market flexibility and adversely increase the cost of FIFO.

Removing or reducing these FBT arrangements is unlikely to encourage a greater uptake of residential employment in the regions. It will simply increase the cost of doing business in the regions, which is relatively higher as is, and would counter the policy intent of these exemptions. That is, these costs are necessary to performing a role in remote areas and do not constitute genuine remuneration. In support of this view, the Productivity Commission's inquiry did not recommend changes:

*"The current FBT regulations aim to distinguish between genuine business operating costs (that is, cases where benefits such as housing or travel are essential for employees to perform their role) and other more private types of benefits. This approach appears appropriate in the context of broader fairness objectives."*<sup>34</sup>

Table 1: Contrast of typical FBT outcomes across locations and circumstances.

	FIFO		DIDO	
	Remote	Non-remote	Remote	Non-remote
Flights	No FBT	FBT	FBT or reduced	FBT or reduced
Housing	No FBT	No FBT	No FBT or reduced	FBT
Utilities	No FBT	No FBT	FBT or reduced	FBT
Meals	No FBT or reduced	No FBT or reduced	FBT	FBT
An eligible business deduction is available for corporate income tax purposes across all scenarios.				

#### *Living away from home allowance*

An employee working temporarily away from their usual place of residence is typically eligible for LAFHA. This extends to employees choosing a regular, rotational FIFO arrangement.

The provision of flights, accommodation, utilities and meals as part of LAFHA attracts a concession under the FBT arrangements. As previously highlighted, this concession is not limited to the resource sector – which is a common misconception among stakeholders opposed to FIFO. No concession however exists for reimbursing DIDO expenditure. LAFHA concessional treatments for FIFO should not change. Changes to LAFHA should consider the unintended consequences for employees (increased pay-as-you-earn withholding income tax) and employers from an oncost perspective (increased superannuation, payroll tax and work cover).

#### *Fly-in, fly-out transport*

Although FIFO transport incurs a substantial cost, it is deemed unanimously necessary by companies to mobilise the required labour to the required sites across the regions. The Explanatory Memorandum to the *Tax Laws Amendment (2011 Measures No. 6) Bill 2011* (Cth) supports this view:

*"...having regard to the respective locations of the worksite and the employee's place of resident, it would be unreasonable to expect the employee to travel to and from work on a daily basis."*

<sup>34</sup> Productivity Commission, *Geographic labour mobility*, research report, April 2014, p. 256.

Without extension of this concession to FIFO arrangements, employees may be unfairly taxed on this travel.<sup>35</sup> The leg between work and their usual place of residence is considered of a private and domestic nature and therefore constitutes an ineligible deduction for income tax purposes in the hands of the receiving employee.

The cost of providing a fringe benefit, together with any applicable FBT payable, is an eligible deductible cost of carrying on a business for corporate income tax purposes as per section 8-1 of the *Income Tax Assessment Act 1997* (Cth). It is misleading to suggest the FBT arrangements accords a preferential status to FIFO related expenses. Whether an employee is provided assistance with FIFO or residential DIDO (remote or non-remote as per the Act), these expenses as well as the tax paid constitutes a legitimate deduction.

CME considers the current FBT arrangements for FIFO transport are necessary and appropriate and should be maintained. Policy and taxation settings should not be made to interfere with a company's decision-making processes on workforce management, nor hamper the ability to offer employees flexible employment arrangements.

#### *Provision of housing*

In 2000, the exemption for remote area housing was extended from primary producers to other sectors where the provision of accommodation was necessary and customary. Since this extension of the exemption, the shortage of housing in remote Western Australia in close proximity to projects has meant it was necessary and customary for the resources sector to provide housing to employees.

Employees choosing to work in remote areas stay for five years or less (either with a mining company or in public administration) are unlikely to commit to a house purchase, instead expecting their employer to provide housing. This exemption for housing benefits should remain unchanged. CME supports extending accessibility of this exemption to other sectors that commonly operate in the regions and have difficulty in attracting and retaining employees.

#### *Other assistance with accommodation*

The concessional treatment of different types of accommodation assistance (an expense payment fringe benefit) provided to employees in remote areas is inconsistent. For example, taxable values are reduced differently when reimbursing employees for rent, mortgage interest, leasing agreements, purchase deposits or transfer duty (Table 2). Compared to the employer provision of housing which attracts an exemption, these benefits attract an arbitrary 50 per cent reduction in taxable value. Increasing these concessions or replacing with an exemption would address any distortions in offering employees with a range of housing options.<sup>36</sup>

Concessions for these types of assistance with accommodation, other than the employer provision of housing, provide scope for the highest value of assistance. Uptake of this assistance however is uncommon in practice due to the transient nature of projects and natural attrition of rural populations. For simplicity and in the interest of developing the regions, CME supports extension of the exemption to these types of benefits provided in remote areas.

Table 2: Contrast of typical concessional tax treatment across types of accommodation assistance.

	Subject to a 50 per cent reduction in taxable value	Differences
Residential fuel	Available on electricity, water and petrol	Does not include water Subject to a cap
Rent	Based on cost to the employee	Not based on value reimbursed to the employee

<sup>35</sup> Taxation Ruling 95/34 *Income tax: Employees carrying out itinerant work – Deductions, allowances and reimbursements for transport expenses.*

<sup>36</sup> Haslam McKenzie, F., Phillips, R., Rowley, S., Brereton, D. and Birdsall-Jones, C. *Housing market dynamics in resource boom towns*, final report no. 135, Australian Housing and Urban Research Institute, July 2009.

Mortgage interest	Based on value reimbursed to the employee	Not based on cost to the employee (stark contrast to row above) Substantiation requirements
Purchase property costs	Based on cost to the employee	Available on specific expenses such as transfer duty and deposits If the employer has an option to repurchase, the benefit may be spread over the duration

### Exemption for away from home allowances

In a constrained labour market, companies compete to offer attractive employment packages to attract the required qualifications and skills to work in the regions. Even with the lure of higher salaries, the sector still struggles to attract required talent – whether DIDO or FIFO.

These challenges are compounded when seeking to access local talent pools who are within DIDO distances from operating sites, particularly when multiple resource sector operations and other sectors are located in the same regions. In these circumstances, employees are either required to DIDO from their usual place of residence on a daily basis; or if fatigue management policies do not permit daily commuting, they reside on the mine site for the duration of the roster. In the latter instance, it is not economically viable to provide attractive LAFHA benefits to residential DIDO employees that are in addition to onsite accommodation and associated costs.

As an alternative, to attract more local residents they could be offered an allowance for choosing DIDO (in lieu of creating a FIFO opportunity from an urban area). Providing this allowance however does not attract a FBT remote area exemption similar to how LAFHA and FIFO transport does. Despite a tyranny of distance over 100 km for employees to long distance commute, this allowance can attract pay-as-you-earn income tax in the receiving hands of the employee. Extending the LAFHA exemption to DIDO transport allowances in remote situations like this would address this anomaly, providing policy neutrality and equitable treatment of different choices of long distance commuting arrangements.

### Exemption for childcare

Many member companies, as well as the wider public<sup>37</sup>, report an inability for new employees to secure necessary childcare services in the regions, as well as for employees seeking to return to work. Childcare centres are at capacity with extended waitlists, placing undue stress on residential employees. Depending on the community's demographics, the waitlist for a particular age cohort can be three digits. This is particularly an issue in the eastern regions of Western Australia where member companies have collaborated with local government to contribute to expanding the capacity of a local childcare centre. In response to an online survey, one respondent stated:

*"You don't get to choose the [childcare] centre you want based on rating and quality. You get what has a space."*<sup>38</sup>

If both parents are employed full-time in the regions, there are also limited deductions available on the cost of childcare, as it is not recognised as a legitimate cost in deriving assessable income for the individual.

An extension of the FBT exemption to other forms of childcare services such as before and after school care would have a transformational impact in increasing the workforce diversity and attractiveness of relocating to the regions. Currently an exemption is only provided to recognised childcare services offered on employer premises. This however, due to safety regulations and others reasons, is not a viable option for parents working on a shift basis or out on a mine site. CME supports extension of the exemption to a wider range of employer sponsored childcare services. This would seek to achieve parity, preventing inequitable taxing of regional childcare services that would otherwise be of higher

<sup>37</sup> Verhagen, S., Hill, D. and Zaunmayr, T., *Kids or jobs: WA's country childcare crisis*, West Regional News, The West Australian, February 2019.

<sup>38</sup> Puzzle Consulting, *Childcare in Kalgoorlie-Boulder*, December 2017, p. 2.

quality, affordability, accessibility and range if located in urban areas. It may also assist in reducing instances of underemployment driven by difficulties in accessing childcare on a full-time basis.

## Zone tax offsets

CME supported amendments to reduce the offset eligibility to those who genuinely reside in the regions, realigning the offset with its original policy intent. FIFO employees who have not declared a usual place of residence within a designated zone are excluded from receiving the offset. Before this amendment, FIFO employees could be eligible if they met the time requirement of 183 days or more (Table 2).

Prior to these amendments, CME has advocated for a review of the offsets. The offset has significantly eroded and no longer constitutes real value (i.e. is redundant) in materially influencing an employee's decision to relocate to the regions or in assisting those already residing in the regions. As identified by the Industry Commission in 1993, the offset would have to increase substantially to achieve its original policy intent. The offset could be replaced with another scheme such as those discussed below in delivering a real financial incentive to employees to relocate to regions of identified need.

Table 3: Eligibility for offsets across locations and circumstances. NB: For comparison with Table 1, "remote" is defined as per the Act. For an individual's income tax purposes, it is possible to qualify as "remote" despite being "non-remote" for FBT purposes.

	FIFO		Residential	
	Remote	Non-remote	Remote	Non-remote
Individual: Eligible zone tax offset	No Previously yes, if the time requirement was met	No Previously yes, if both location and time requirements were met	Yes	If location and time requirements are met

## Other forms of assistance

To date, CME has supported the Developing Northern Australia Agenda. In particular, member companies operating in Kimberley would benefit favourably from sustainable policy and taxation settings that encourage regional economic and community development. Revisiting the concept of Special Economic Zones or offsets for businesses with headquarters and genuine operations in the regions should be considered.<sup>39</sup>

The high cost of land and housing is a large impediment to population growth and sustainable community development in the regions. For example, although there has been a decrease in recent years, 47 per cent of residents in the Kimberley and 40 per cent in the Pilbara plan to move for cheaper housing. There is scope and opportunity to utilise existing Commonwealth Rent Assistance and housing affordability programs to target support of employees working in the region. Thresholds and assistance provided under these programs do not adequately recognise the higher cost of regional rent.<sup>40</sup> In addition, transfer duty concessions or exemptions similar to the Australian Capital Territory could be explored for targeted application to the regions.

<sup>39</sup> John, M., *The economic development of Northern Australia: A critical review of the taxation benefits and incentives both past and present and the potential taxation options for the future*, Journal of the Australasian Tax Teachers Association, vol. 12, issue 1, December 2017.

<sup>40</sup> Melhuish, T., King, A. and Taylor, E., *Housing affordability and Commonwealth rent assistance*, research and policy bulletin issue 59, Australian Housing and Urban Research Institute, August 2005.

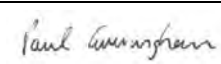
## Conclusion

In 2017-18, Western Australia contributed to 46 per cent of Australia's international trade, with 96 per cent of major exports derived from the Western Australian resources sector.<sup>41</sup> Commodity export earnings, aided by stimulus support by governments, have helped the Australian economy withstand the global financial crisis.<sup>42</sup>

The resources sector operates in a highly trade exposed economy, sensitive to swings in global commodity markets and intense price competition from low cost producing economies such as South America and Africa. In the context of continued global economic volatility, producers and users of commodities are increasingly focusing on achieving operational and cost efficiencies. Given these external factors, coupled with a high marginal effective tax rate on corporate income<sup>43</sup>, <sup>44</sup> junior explorers, mid-tier miners and vertically integrated global supply chains with an Australian place of business are highly susceptible to changes in operating and compliance costs. Policy, taxation and regulatory reform are needed to ensure Western Australia and the nation remains a stable and attractive location for investment by the resources sector locally, nationally and internationally.

CME welcomes the Productivity Commission's inquiry into remote area tax concessions and payments. There is no clear incentive provided to the resources sector via FBT arrangements that would privilege a FIFO employee over a residential employee. Whilst tax is a consideration for the sector, as with all other sectors, it is not a key decision criterion influencing the choice and composition of workforce models. The decision to offer one work arrangement over another is a product of business requirements, local circumstances (including the availability of infrastructure and community services) occupational health and safety considerations and, not least, individual preferences. Hence, policy settings ought to promote flexibility and mobility in continuing to meet the needs of employers and employees into the future.

If you have any further queries regarding the above matters, please contact Ms Linh Nguyen, Policy Adviser, Economic Competitiveness on 0439 488 672 or via email at [l.nguyen@cmewa.com](mailto:l.nguyen@cmewa.com).

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<sup>41</sup> Department of Foreign Affairs and Trade, *Western Australia*, statistics section, January 2019.

<sup>42</sup> Department of Industry, Innovation and Science, *Resources and Energy Quarterly*, Office of the Chief Economist, December 2018, p. 5.

<sup>43</sup> Organisation for Economic Co-operation and Development, *Corporate tax statistics database*, December 2018.

<sup>44</sup> Bazel, P. and Mintz, J., *Corporate tax reform: Australia watches the train go by*, policy paper, Minerals Council of Australia, March 2019.



## Appendix

### Appendix A – Previous positions on related topics

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## Appendix B – Upcoming construction employment numbers

Table 4: List of upcoming major projects with their estimated construction numbers and distance to nearest town and/or airport. NB: This list includes feasible and committed projects with publicly available estimates of construction employment numbers. These numbers exclude operations.

Proponent	Project	Construction employment	Nearest town	Distance
Albemarle	Kemerton Processing Plant	500	Bunbury	17 km
Balla Balla JV	Balla Balla Infrastructure	3,300	Karratha	150 km
BHP Iron Ore	South Flank	2,500	Newman	130 km
BHP Nickel	Kwinana Refinery	200	Perth	35 km
Cameco	Yeelirrie Mine	1,200	Kalgoorlie	420 km
Fortescue Metals Group	Eliwana Mine and Rail	1,900	Tom Price	90 km
Fortescue Metals Group	Iron Bridge	3,000	Port Hedland	100 km
Gold Fields JV	Gruyere	350	Laverton	140 km
Gorgon JV	Gorgon Stage 2	200	Onslow	200 km
Mineral Resources	Wodgina Processing Plant	450	Port Hedland	120 km
Mount Gibson Iron	Koolan Island Restart	330	Derby	140 km
Rio Tinto	Koodaideri Mine and Infrastructure	2,000	Newman	110 km
Rio Tinto	Robe Valley Expansion	750	Karratha	200 km
Rio Tinto	West Angelas Expansion	450	Newman	130 km
Sheffield Resources	Thunderbird	220	Derby	60 km
Talison Lithium	Greenbushes Mine Expansion	500	Bunbury	90 km
Woodside	Browse to North West Shelf	2,600	Broome	425 km
Woodside	Scarborough LNG	2,400	Karratha	400 km
	Total	22,850	Average	164 km

Table 5: List of potential projects not included above, i.e. publicly announced projects pending a FID and therefore no details available on jobs.

Proponent	Project	Nearest town	Distance
Fortescue Metals Group	Nyidinghu	Newman	100 km
Mineral Resources	Light Rail Bulk Ore Transportation System	Port Hedland	< 5 km
Mitsui E&P	Waitsia Stage 2	Dongara	15 km
Northern Minerals	Browns Range Stage 2 and 3	Halls Creek	170 km
Pilbara Minerals	Pilgangoora Stage 2 and 3	Port Hedland	120 km
Santos	Dorado	Port Hedland	160 km
Shell	Crux LNG	Broome	620 km
Tronox	Cooljarloo Mine Expansion	Cervantes	30 km
Woodside	Julimar-Brunello Stage 2	Karratha	180 km
Yara Pilbara Fertilisers	Renewable Hydrogen Plant	Karratha	27 km
		Average	142 km

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