



Miss Siri Linde
C/- Right to know

By email:
foi+request-1622-d7548a2e@righttoknow.org.au

Our reference: 1-7RTZWBE
Contact officer: Chad Reich
Phone: (08) 8208 1794

Date: 11 March 2016

Decision regarding your Freedom of Information request

Dear Miss Linde,

The purpose of this letter is to give you a decision regarding your request for access to documents under the *Freedom of Information Act 1982 (FOI Act)* dated 25 February 2016. I am an officer authorised under section 23 of the FOI Act to make decisions regarding access to documents.

I understand that you are concerned about the proposed changes to the tax rules for working holiday makers in Australia in 2016. You asked if we could direct you to, or provide you with documents which would help you understand how the changes would affect working holiday makers presently employed in Australia under the old rules, specifically in relation to taxation obligations for the 2015-16 financial year.

Relevant information is publicly available and can be found at:

- <https://www.ato.gov.au/General/New-legislation/In-detail/Direct-taxes/Income-tax-for-individuals/Tax-residency-rules-to-change-for-temporary-working-holiday-makers/>; and
- http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/BudgetReview201516/Holiday.

Explanation

Your request concerns proposed changes to the residency status of working holiday makers in Australia in 2016. These changes were proposed by the Australian Government as one measure in the 2015-16 budget. The proposal involves clarifying that the residency status (for tax purposes) of temporary working holiday makers will be non-resident. The changes were proposed to take effect from 1 July 2016, and as yet no legislation has been drafted.

Relevant information regarding the proposed changes is publicly available on the ATO website (please refer to the link above). In addition, the Parliament of Australia website provides information regarding the effect of the proposed changes. This information indicates that working holiday makers will no longer be eligible for the tax free threshold or the low income marginal tax rate. Instead working holiday makers will be taxed at the second marginal rate (currently 32.5c per dollar) for every dollar earned, up to \$80,000.

However, as the changes are proposed to take effect from 1 July 2016 the changes will not have any effect in relation to the tax payable on income earned in the current 2015-16

financial year. Income tax returns and assessments for the 2015-16 financial year will apply the existing tax rates, even though they are lodged after 1 July 2016. As such there are no consequences for current working holiday makers and their taxation obligations for 2015-16. If the proposed changes are implemented, the changes will apply from the 2016-17 financial year onward. Information regarding the legislative developments concerning the proposed changes will be available on the Parliament of Australia website in due course.

As your request is for information about how the proposed changes will affect the taxation obligations of working holiday makers in the 2015-16 financial year, and the changes only operate after that year, I am satisfied under section 24A(1)(b)(ii) of the FOI Act that the ATO does not have any documents falling within the scope of your request.

Your review rights

If you are dissatisfied with my decision, you may apply for internal review or Information Commissioner review of the decision. We encourage you to seek internal review as a first step as it may provide a more rapid resolution of your concerns.

Internal review

Under section 54 of the FOI Act, you may apply in writing to the ATO for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter, quoting our reference number at the top of this letter, and be lodged in one of the following ways:

email: FOI@ato.gov.au
post: Australian Taxation Office, General Counsel
GPO Box 4889 Sydney NSW 2001

Where possible please attach reasons why you believe review of the decision is necessary.

The internal review will be carried out by another officer within 30 days. If you have not been informed of the outcome of the review within that time, you may apply to the Australian Information Commissioner under section 54L of the FOI Act.

Information Commissioner review

Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

online: <https://forms.business.gov.au/aba/oaic/foi-review/>
email: enquiries@oaic.gov.au
post: GPO Box 5218, Sydney NSW 2001
in person: Level 3, 175 Pitt Street, Sydney NSW

Your application must include a copy of this letter (and any attachments), an address where notices can be sent to you (e.g. your email address) and particulars of the basis on which you dispute the decision.

Visit the Australian Information Commissioner website, www.oaic.gov.au/freedom-of-information/foi-reviews, for more information about Information Commissioner review.

Complaints

Any complaint about the processing of your FOI request can be directed to the Commonwealth Ombudsman. The complaint should set out the action you consider should be investigated. Complaints may be lodged in one of the following ways:

Phone:	1300 362 072*
Indigenous Line phone number:	1800 060 789*
In writing:	GPO Box 442 Canberra ACT 2601 or by fax (02) 6276 0123
Online:	<u>www.ombudsman.gov.au/pages/making-a-complaint/</u>

Visit www.ombudsman.gov.au for further details.

Questions about this decision

If you wish to discuss this decision, please contact me on the number provided above.

Yours sincerely,



Chad Reich
Senior Lawyer
General Counsel

*Fixed low charges apply, calls from mobile phones charged at mobile phone rates

†Free or low charges apply, calls from mobile phones charged at mobile phone rates