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Bring them Home - The Case for Tax Concessions for Returning Australians

Abstract

Globalisation and advances in technology have created an internationally mobile labour market, particularly for skilled workers. In Australia the number of Australians going overseas permanently or for extended periods of time is continuously increasing and is currently at record levels. This creates a number of problems for the domestic economy in the short-term and inhibits growth and development in the long-term. An effective and timely response is required. Returning residents bring with them a number of benefits which cannot be realised through migration or even retention and accordingly, this article argues for the introduction of a tax concession for returning residents as a means of enticing them to return.

Keywords

tax concessions, Australians, labour market, residents, tax

Cover Page Footnote

Nothing in this paper should be construed as reflecting the views, opinions and policies of the University of Melbourne or KPMG Australia. I am grateful for comments from Miranda Stewart, Dr Mike Kobetsky and Belinda Fan. This is a revised version of a paper presented at the Australasian Tax Teachers Association Conference, Melbourne, Australia, January 2006.

BRING THEM HOME – THE CASE FOR TAX CONCESSIONS FOR RETURNING AUSTRALIANS

*Sunita Jogarajan**

Globalisation and advances in technology have created an internationally mobile labour market, particularly for skilled workers. In Australia the number of Australians going overseas permanently or for extended periods of time is continuously increasing and is currently at record levels. This creates a number of problems for the domestic economy in the short-term and inhibits growth and development in the long-term. An effective and timely response is required. Returning residents bring with them a number of benefits which cannot be realised through migration or even retention and accordingly, this article argues for the introduction of a tax concession for returning residents as a means of enticing them to return.

Introduction

International migration in itself is not a new phenomenon. Individuals and sometimes whole communities have migrated for reasons such as war, ethnic or religious persecution, poverty or settlement of new territory.¹ For example, significant numbers of South Africans and Sri Lankans migrated to Australia in the 1970s due to apartheid and war respectively.² More recently, globalisation, coupled with advances in technology, have enabled the creation of an internationally mobile labour market, further stimulating movements in human capital.

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1 Rijkele Betten, *Income Tax Aspects of Emigration and Immigration of Individuals* (1998) xix.

2 James Jupp, *The Australian People: An Encyclopaedia of the Nation, Its People and Their Origins* (2001) 69.

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Australia is no stranger to human migration being largely, a country of migrants. At 30 June 2004, almost a quarter (24%) of the Australian population was born overseas.³ Following the Second World War, Australia had an influx of immigration mainly from Europe, which has steadily continued. The largest number of overseas-born Australians is still from the United Kingdom (UK), being 24% of total overseas-born Australians.⁴ Recent decades has seen a shift in origin but not numbers, with more immigrants tending to come from countries in Asia.⁵ Between 1996 and 2001, the greatest increase in Australian migrants by region of birthplace was from Asia (an increase of 45%).⁶

The international mobility of human capital, however, has created a new trend in Australia of increasing *emigration*. Australia's emigration rate is currently at record levels.⁷ In 2002-3, permanent departures as a percentage of permanent arrivals was 53.7%, compared to 43.3% in 2000 and only 23% in 1990. With nearly 5% of the population living overseas permanently, this is one of the world's major diasporas in relation to the resident population.⁸ For the first time *ever*, there were more Australians settling permanently in the UK in 2001 and 2002, than permanent migrants from the UK coming to Australia.⁹

In light of the growing number of Australians permanently departing our shores, this article argues for the introduction of tax concessions for Australians who return after a period of time overseas. Australian emigration creates adverse consequences for the economy and there are clear advantages in prioritising the return of Australian expatriates to address these problems. The next section discusses the problems created by increasing emigration. Section III identifies the advantages of privileging returning residents. Section IV discusses why a tax concession is an appropriate form of inducement and, finally, Section V presents the specific tax concession proposed.

3 Australian Bureau of Statistics, Migration Australia 2003-04 (2005) 6.

4 Ibid. This is followed by New Zealand (9%), Italy (5%), China and Vietnam (4% each).

5 Graeme Hugo, 'A New Paradigm of International Migration: Implications for Migration Policy and Planning in Australia' (Research Paper No. 10 2003-04, prepared for general distribution to Senators and Members of the Australian Parliament, 2004) 16-7.

6 Department of Immigration and Multicultural Affairs, *Population Flows: Immigration Aspects* 2004-05 (2006) 4.

7 Above n 5, 56.

8 Above n 5, 2 and 65.

9 Above n 5, 4.

The Need for Reform

Emigration creates two serious problems for the Australian economy, which can be stemmed by encouraging Australian expatriates to return.

(a) Brain-drain

One of the most significant issues created by Australian emigration has been 'brain-drain', the loss of our skilled workers to perceived greener pastures overseas. A major research project found that Australian emigration overwhelmingly comprises highly-skilled, highly-educated individuals.¹⁰ As an example, there are 20 Australian born and educated professors at Harvard University and Massachusetts Institute of Technology alone.¹¹ Australians occupy top positions in global power players such as General Motors, Boston Consulting Group, M&C Saatchi, HSBC Group, Axa and Toyota.¹² Given the relatively small population, the number of Australians in top international positions is extraordinary.¹³

The negative impacts of brain-drain are twofold. Firstly, as the evidence shows, Australia is losing its brightest minds to other countries, inhibiting growth and development. The economic literature indicates that skilled migration is unambiguously detrimental to those left behind, particularly where the education of migrants was funded in some part by taxpayers.¹⁴ Secondly, the brain-drain is a contributor to the current skills shortage in the Australian labour market.¹⁵ A relatively recent detailed analysis of skilled worker movements showed that the overall loss in terms of individuals amounted to 35,927 in the period from 1997-8 to

10 Graeme Hugo, Dianne Rudd and Kevin Harris, *Australia's Diaspora: Its Size, Nature and Policy Implications* (Final Report, Committee for Economic Development of Australia, July 2003) 35. It is noted that the survey recognized that its methodology may have been biased towards respondents with those characteristics.

11 Michael Fullilove and Chloë Flutter, 'Diaspora The World Wide Web of Australia' (Lowy Institute Paper 04, Lowy Institute for International Policy, 2004) 6 citing, Advance – Australian Professionals in America, Submission No 676 to the Senate Inquiry into Australian Expatriates (2004) 12.

12 Amita Tandukar, 'The Expat Express', *BRW* (Melbourne), 22-28 September 2005, 62.

13 Above n 11, 5.

14 Frederic Docquier and Abdeslam Marfouk, 'International Migration by Education Attainment' in Caglar Ozden and Maurice Schiff (eds), *International Migration, Remittances and the Brain Drain* (2006) 151.

15 Sustained economic growth and a dwindling birth rate are the other main contributors to the skills shortage.

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1999-2000.¹⁶ This equated to a net loss of approximately 2.2% of all professionals. Comparatively, the net loss in that same period for all other occupations was only 0.9%. The chronic skills shortage is expected to lead to a rise in labour costs and consequently interest rates,¹⁷ which has the potential to dramatically impact all Australian households and the business sector, given the current high levels of borrowing.¹⁸ While the problem of brain-drain is not unique to Australia,¹⁹ there is a pressing need to counter this drain on our domestic skills base, as it adversely affects both productivity and the economy. For example, it was estimated that the skills shortage problem in the European Union would result in a loss of € 380 billion in Western Europe over the two year period 2001-3.²⁰

The Howard Government recognises that a problem exists and has made a number of attempts at addressing the skills shortage with arguably limited success. Firstly, the government introduced changes to the skilled migration program to increase the number of skilled immigrants and make it easier for them to obtain permanent residency.²¹ The common perception is that the problem of brain-drain is greatly mitigated by the high rate of immigration which Australia continues to enjoy. However, an analysis of the available data and an inquiry in this area both indicate that this may not be the case. Australia's immigrants generally do not possess the same skills or experience as its emigrants. According to the immigration data for 2002-3, less than 50% of the total migrants in that year entered Australia under a skilled visa category.²² The number of migrants who entered Australia on a skilled migrant visa in 2002-3 was 66,050.²³ In addition, there were 16,365 New Zealand citizens who entered Australia that year.²⁴ Assuming that all New Zealand immigrants were skilled

16 Bob Birrell, et al, *Skilled Labour: Gain and Losses* (2001) 16.

17 Australian Associated Press, 'Skills Shortage and Inflation Threat to Rates', *The Age* (Melbourne), 26 September 2005.

18 Josh Gordon, 'Pressure for Rate Increase', *The Age* (Melbourne) 1 March 2005; ABC Television, 'Interest Rates Set to Rise', *The 7:30 Report*, <<http://www.abc.net.au/7.30/content/2005/s1297749.htm>> at 7 February 2005.

19 See Sami Mahroum, 'Europe and the Challenge of the Brain Drain' (Report, Institute for Prospective Technological Studies, 1999); Gilles Saint-Paul, 'The Brain Drain: Some Evidence from European Expatriates in the US' (Discussion Paper Series No 4680, Centre for Economic Policy Research United Kingdom, 2004).

20 Southern Cross Group, *Skills Shortages in the EU – Implications for Australia* (2001) 1.

21 These measures included increasing the number of visas available and making it easier for international students to apply for a visa onshore: above n 5, 27, 42.

22 Above n 5, 41, citing Department of Immigration and Multicultural Affairs, 'Migration Program planning levels' (Fact Sheet 20, 2003).

23 Ibid.

24 Ibid.

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individuals, total skilled immigrants in that year was approximately 82,415. On the other hand, long term permanent departures in 2002-3 totalled 169,100.²⁵ Consequently, skilled immigration comprises only 48.7% of total emigration, whereas skilled emigration is estimated to be approximately 60 to 70% of total emigration.

More importantly, as a result of the abovementioned government measures, more than half of the skilled migrants were freshly graduated foreign students from an Australian university.²⁶ A recent inquiry has found that thousands of these migrants were unable to gain employment in their chosen occupation and ended up working in unskilled jobs such as taxi driving, thereby exacerbating the gaps in our skilled labour market.²⁷ These migrants are generally considered unemployable due to their inadequate language skills.²⁸ These findings are supported by other country experiences. A recent study into 'brain waste' in the United States found clear evidence that educated immigrants from some countries were taking up unskilled jobs.²⁹ In Australia, the 2001 census found that 25.2% of migrants with postgraduate education who arrived between 1995 and 2000 were unemployed or not in the labour force.³⁰

A second measure undertaken by the Howard government was to introduce tax concessions to attract foreign workers to Australia.³¹ The government had made two previous attempts at introducing the concessions and the reintroduction of these measures was foreshadowed in the Federal Treasurer's most recent budget.³² Broadly, the new provisions provide a tax concession for individuals who are temporarily resident in Australia by exempting from Australian income tax, their foreign-sourced income. Without such a concession, such individuals would generally be treated as

25 Ibid 60.

26 Ibid 27.

27 Paul Robinson, 'Skilled Migrants' Often Straight Out of Uni', *The Age* (Melbourne), 27 August 2005.

28 Sophie Morris, 'Poor English Makes Skilled Migrants Unemployable', *Australian Financial Review*, 14 October 2005.

29 Caglar Ozden and Maurice Schiff, 'Overview', above n 14, 12.

30 Joint Standing Committee on Migration, *Review of Skilled Migration: Issues and Views for Comments and Discussion* (2003) 11.

31 *Tax Laws Amendment (2006 Measures No 1) Act 2006 (Cth)* Schedule 1.

32 See, Taxation Laws Amendment Bill (No 4) 2002 (Cth) Schedule 3; Taxation Laws Amendment Bill (No 2) 2003 (Cth) Schedule 1; Australian Government, Budget Paper No 1: Budget Strategy and Outlook 2005-06 (2005) 'Part 1: Fiscal Strategy and Budget Priorities' 1-15.

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Australian residents for tax purposes and therefore, be subject to Australian income tax on their worldwide income.

Finally, the government has held 'Australia Needs Skills' recruitment expos in various countries around the world to help fill Australian job vacancies that exist because of skills shortages in Australia.³³ These Expos target job vacancies for people with recognised qualifications and/or work experience in an occupation experiencing a shortage.

While commendable, these measures are only a temporary solution to the skills shortage problem and more importantly, none of these measures encourage Australian expatriates to return. In particular, the abovementioned tax concession to entice foreign workers to Australia is specifically limited to individuals entering Australia on temporary entry visas.³⁴ Further, these measures only seek to address the gaps in our skilled labour market but do not tackle the fact that we are losing our brightest minds overseas. In response to this aspect of the brain-drain problem, the government has, under its *Backing Australia's Ability* innovation plan, introduced Federation Fellowships which are administered by the Australian Research Council.³⁵ These Fellowships intend to retain top Australian academics and attract Australian academics working overseas to return by offering them internationally competitive salaries. Such a program is clearly necessary and most welcome. However, the program is only available to approximately 25 individuals each year, generally in the targeted areas of environmental sustainability, health, security and frontier technologies.³⁶ Further, only a third of these Fellowships has been awarded to expatriates thus far.³⁷ Its ability to attract Australian expatriates to return is extremely limited and should be accompanied by other more general measures, such as the proposed tax concession.

33 Department of Immigration and Multicultural Affairs, Skilled Migration Expos (2006) <<http://www.immi.gov.au/skillexpos/index.htm#expos2006>> at 3 May 2006.

34 Explanatory Memorandum, Taxation Laws Amendment (2006 Measures No 1) Bill 2006 (Cth) 14-16.

35 Australian Research Council, Federation Fellowships <http://www.arc.gov.au/grant_programs/discovery_federation.htm> at 4 October 2005.

36 Ibid.

37 Above n 11, 57 (citing various government media releases and press reports).

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(b) Revenue loss

A second negative consequence of Australian emigration for the economy is a loss to revenue. Most Australians who leave permanently tend to be high-income earners.³⁸ This is supported by a recent survey which found that Australian expatriates often hold high position (and high paying) jobs overseas.³⁹ A loss to revenue arises because once overseas and deemed to be non-residents for Australian tax purposes, all income earned outside Australia by these individuals is not subject to tax in Australia. This is of particular importance given our high reliance on personal income taxation as a source of government revenue.

In 2002-3 Australia collected approximately 49% of its personal income tax revenue from individuals with income in excess of \$60,001 (our highest income tax bracket in 2002-3).⁴⁰ These high-income individuals contribute *at least* \$15,580 in tax each year. A recent analysis has shown that the top 2% of taxpayers pay the bulk of personal taxes.⁴¹ In light of these statistics and the trend of losing high-income earners, there may be a relatively significant loss to Australian tax revenue from emigration.⁴² This is especially important as Australia relies heavily on personal income tax revenue with approximately 73% of income tax revenue and 55% of total revenue in 2002-3 collected from personal income tax.⁴³

Privileging returning Australians

As previously shown, there are a number of immediate problems for Australia which can be alleviated by enticing Australian expatriates to return. This section seeks to establish the additional advantages which can be realised by the return of expatriate Australians and accordingly, the reasons for affording this select group of individuals a tax concession. It should be noted that the arguments for privileging returning Australians do not mean that we should decrease immigration. There is no doubt that Australia's economy and society have richly benefited from past immigration and should continue to do so.

38 Above n 11, 14-15.

39 Above n 12, 60.

40 Australian Taxation Office, *Taxation Statistics 2002-03, A Summary of Taxation, Superannuation and Industry Benchmark Statistics 2002-03 and 2003-04* (2005) 22.

41 Sinclair Davidson, 'Who Pays the Lion's Share of Personal Income Tax?' (CIS Policy Monograph 63, The Centre for Independent Studies, 2004) 4.

42 See above n 11, 33.

43 Australian Government, Statement 5: Revenue in Budget Paper No 1 Budget Strategy and Outlook 2002-03 (2002) Table 3.

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(a) Double benefit

The first and perhaps most important reason for preferring returning residents over immigrants is that returning Australians provide 'a double dividend'. Hugo proposes that we should embrace Australians who leave and acquire experience, knowledge and networks overseas and encourage their return because in doing so we have the double benefit of retaining their home-grown skills *and* gaining their skills and experience garnered overseas.⁴⁴ The overseas networks acquired by these individuals can provide a number of benefits such as increasing bilateral trade, mobilising balance of payment flows and stimulating the domestic economy.⁴⁵ These benefits are considered particularly valuable for Australia, given our relatively small population and geographical isolation.⁴⁶ The contribution which this select group of individuals can make to the Australian economy cannot be replicated and underpins the reasons this article only argues for tax concessions for returning Australians and not tax reforms to promote retention of Australian talent.

(b) Training and education

One reason why foreign students with Australian qualifications are favoured over other skilled migrants is the notion that they are 'trained to our specifications'.⁴⁷ This view is supported by a recent paper which suggested that one reason for the lower labour participation rate by skilled immigrants in the United States is informational asymmetry - employers have limited information and confidence in overseas education systems.⁴⁸ The preference for Australian graduates implicitly recognises the high-quality of our tertiary education system. Consequently, it is proposed that such benefits can also be realised by encouraging Australians to return. The majority of Australian emigrants who leave the country do so following completion of their tertiary education here, at a significant cost to Australian taxpayers.⁴⁹ In fact, our highly-regarded education system is listed as a factor in increasing the international demand for Australian-trained workers.⁵⁰ Accordingly, the Australian economy

44 Above n 5, 2; Graeme Hugo, 'Emigration of Skilled Australians: Patterns, Trends and Issues' (Paper presented at the DIMIA Immigration and Population Issues Conference, Sydney, 7 May 2002) 47.

45 Above n 11, 34-36.

46 Above n 11, 7.

47 Above n 27.

48 Aaditya Mattoo, Ileana Cristina Neagus, and Çağlar Özden 'Brain Waste? Educated Immigrants in the US Labor Market' (World Bank Policy Research Paper No 3581, 2005).

49 Government expenditure on tertiary education in 2002-3 amounted to \$15.1 billion: Australian Bureau of Statistics, *2005 Year Book Australia* (2005) 333.

50 Above n 11, 5.

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should benefit from the return of these skilled workers.⁵¹ This would diminish Australia's reliance on foreign trained workers, decreasing the probability of inadequately trained foreign workers entering the Australian labour market. Birrell has noted that there are constraints on the scale of Australia's migration program and consequently, the quality of the migrant selected is likely to decrease if the program is pushed too hard.⁵²

(c) Settler loss

A third advantage in attracting returning residents over migrants is that returning residents are more likely to stay in Australia for the long-term following their return whereas skilled migrants have a higher propensity of leaving. This is because migrants may experience difficulties such as cultural differences, lack of family support, language barriers and other assimilation problems.⁵³ One previous study found that highly-skilled immigrants do tend to leave Australia at a higher rate than those with lower level skills because of assimilation problems and their ease of movement.⁵⁴ On the other hand, Australians are likely to return for reasons such as family and cultural connections. These are the factors that will enable them to better assimilate back into society and mean that they are likely to continue living in Australia rather than only returning for a short term.⁵⁵

(d) Goodwill

The current research into Australian emigration reaches the unanimous conclusion that Australia as a nation should embrace its expatriate population.⁵⁶ Globalisation and the high quality and number of Australian expatriates mean that Australia can no longer afford to ignore them. Australian expatriates even while overseas can provide a multitude of benefits to Australia such as creating goodwill towards the country, promoting tourism, establishing international contacts and networks that would be useful for other Australians, establishing direct links between countries and, most

51 The medical profession has taken this idea to an interesting extreme by suggesting that medical students owe the public a duty of care as their training has been subsidised by taxpayers.

52 Bob Birrell, 'Immigration Policy and the Australian Labour Market' (2003) 22(1) *Economic Papers* 44.

53 See Leslyanne Hawthorne, *Labour Market Barriers for Immigrant Engineers in Australia* (Bureau of Immigration and Population Research) (1994).

54 Graeme Hugo, *The Economic Implications of Emigration from Australia* (1994).

55 Above n 10, 51.

56 Senate Legal and Constitutional Reference Committee, Commonwealth, *They Still Call Australia Home: Inquiry into Australian Expatriates* (2005) v; above n 11, 47; above n 10, 76.

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importantly, creating business and trade links for Australian companies. A secondary benefit of offering a tax concession may be that it creates a sense of goodwill towards Australia in its expatriates. They feel that their contribution is valued and they will be rewarded if they should choose to return.

(e) National security

Finally, it could also be argued that return migration should be preferred over immigration in order to protect national security. Many OECD countries are toughening their legislation on the entry and stay of foreigners for this reason, even going so far as to scale back family unification programs.⁵⁷ There is no evidence on the relationship (if any) between skilled migration programs and threats to national security. In fact, evidence shows that a large number of OECD countries have eased their legislation to facilitate the entry of highly-skilled workers,⁵⁸ raising the presumption that such individuals are not considered a threat to national security (or perhaps economic necessity outweighs security concerns?).

Tax concessions as a form of inducement

Having established the benefits of encouraging overseas Australians to return, this section discusses why the tax system is an appropriate mechanism through which to provide an incentive, the use of tax concessions by other countries and, finally, why a tax concession is to be preferred to other possible forms of government intervention.

(a) Australian tax system

Australia is often portrayed as a high taxing country and, accordingly, is considered not to be internationally competitive.⁵⁹ The tax system is thought to be a barrier to inbound flows of both human and financial capital. Crucially, Australia places an extremely high reliance on *income* taxation. Australia's income tax burden is 17.5% of GDP, significantly higher than the OECD average of 11.5%.⁶⁰ Burn argues that Australia should compare itself to a weighted average of all OECD countries. In such

57 Organisation for Economic Co-operation and Development, *Trends in International Migration* (2004) 91.

58 Ibid 103.

59 See Business Council of Australia, *Taxation Action Plan for Future Prosperity* (2005) 51.

60 Peter Burn, 'How Highly Taxed Are We? The Level and Composition of Taxation in Australia and the OECD' (CIS Policy Monograph 67, The Centre for Independent Studies, 2004) 6.

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a comparison, Australia's level of income taxation is approximately 52% higher than the weighted average.⁶¹

Of particular importance to this paper is Australia's high reliance on *personal* income taxation. This is a function of both our high marginal tax rates and our expansive exercise of jurisdictional taxing rights. Australia has one of the highest top marginal tax rates in the OECD. It kicks-in at a relatively low level of income.⁶² In its imposition of personal income tax, Australia taxes residents on their worldwide income and capital gains and taxes non-residents on their income and capital gains with an Australian source.⁶³ By contrast, countries such as Singapore⁶⁴ and Hong Kong⁶⁵ only subject to tax in their respective jurisdictions income with a domestic source for both residents and non-residents. These two countries provide a useful comparison as recent findings indicate that increasing numbers of Australians are choosing to emigrate there.⁶⁶ Australia also has a relatively low threshold in determining tax residence. Australian citizens and permanent residents are presumed to be tax residents of Australia under the domicile rule, unless they can show that they have a permanent place of abode overseas.⁶⁷ Establishing an overseas permanent place of abode broadly requires that an Australian be living overseas and have no intention of returning to Australia in the foreseeable future.⁶⁸ Such an expansive definition of resident only serves to push Australians out of the country for longer periods of time, lest they be subject to Australian tax on their overseas earnings while abroad. In addition, Australia also has a complex set of controlled foreign company (CFC) and foreign investment fund (FIF) rules which attribute income earned overseas to an

61 Ibid.

62 Organisation for Economic Co-operation and Development, OECD Economic Survey – Australia (2004) 18.

63 *Income Tax Assessment Act 1997 (Cth)* §§ 6-5, 6-10.

64 90% of all foreign income remitted to Singapore will be exempt from tax in Singapore, provided it is subject to at least 15% tax in the overseas jurisdiction: Deputy Prime Minister and Finance Minister Lee Hsien Loong, '2003 Budget Speech' (Speech delivered at the Parliament of Singapore, Singapore, 28 February 2003).

65 Hong Kong Financial Secretary's Office, 2005-06 Budget Consultation (2004) <www.budget.gov.hk/2005/eng/cconsultation_e.pdf> at 16 October 2005.

66 Above n 10, 21-22.

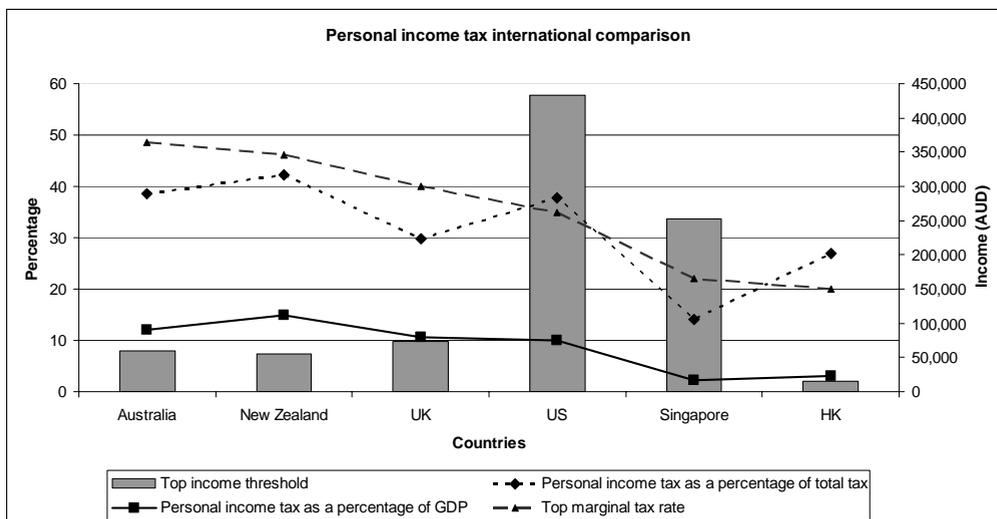
67 *Income Tax Assessment Act (Cth)* 1936 s 6(1).

68 Australian Taxation Office, Taxation Ruling No. IT 2650 (1991); *Federal Commissioner of Taxation v Applegate* (1979) 9 ATR 899; *Federal Commissioner of Taxation v Jenkins* (1982) 12 ATR 745.

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Australian tax resident when earned, even though the income may not yet be remitted to Australia.⁶⁹

The culmination of these factors is that Australia has an extremely high personal income tax burden. The following chart shows that Australia has the highest top marginal tax rate of the comparison countries which starts at a very low level of income, and the second highest personal income tax burden of the comparison countries.



These countries have been selected for comparison because they are economic competitors as well as competitors for Australia's labour. Australia's largest expatriate community is located in the UK while its third, fourth and fifth largest are in the US, New Zealand and Hong Kong respectively.⁷⁰ Singapore has been included in the comparison as it, too, has a significant Australian expatriate community that is continually increasing.⁷¹ Australia's second largest expatriate community is in Greece, which has not been included in the comparison because this group generally comprises returning Greeks who return for family and cultural reasons and are

69 *Income Tax Assessment Act (Cth) 1936 Part X 'Attribution of Income in respect of Controlled Foreign Companies'; Income Tax Assessment Act 1936 Part XI 'Foreign Investment Funds and Foreign life Assurance Policies'.*

70 Above n 10, 21-22.

71 Above n 10, 22.

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therefore significantly different to the other Australian expatriates who are the focus of this article.

Australia's high personal income taxation is a significant barrier for Australians expatriates who wish to return, given that the majority of them are located in lower taxing jurisdictions, as depicted in the above chart. This is confirmed by Hugo's survey of expatriates. A significant number of respondents stated that their reason for staying overseas was because of the country's favourable personal tax regime.⁷² The recent Senate Committee Report highlighted that Australia's high level of personal taxation was of significant concern to Australian expatriates.⁷³ The Committee received a number of submissions suggesting the introduction of specific tax concessions to entice emigrants to return to Australia and ease the transition (back) to a high taxing jurisdiction.⁷⁴

To be truly competitive internationally, a major overhaul of the Australian tax system is required. However, such reform is unlikely to take place for years, if not decades, and as such, the tax concession is proposed as an *immediate* and *timely* response to the issue. Australia needs to start encouraging its expatriates to return as soon as possible.

It is also accepted that individuals generally do not move from one country to another *solely* for tax reasons.⁷⁵ Australian expatriates are no different indicating better job opportunities and professional development as their top two reasons for leaving Australia,⁷⁶ and lifestyle and family as their top two reasons for wanting to return.⁷⁷ However, there is little doubt that tax is one factor in the decision-making process⁷⁸ and the purpose of the tax concession is to increase Australia's favourability in this respect.

72 Graeme Hugo, 'International Mobility of the Highly Skilled: An Australian Perspective' in Fiona Wood (ed), *Beyond Brain Drain - Mobility, Competitiveness and Scientific Excellence* (2004) 94.

73 Above n 56, paras 7.3-7.20.

74 Above n 56, para 7.6.

75 See Thomas Liebig and Alfonso Sousa-Poza, 'The Influence of Taxes on Migration: Evidence from Switzerland' *Cambridge Journal of Economics*, Advance Access, published online 9 August 2005,[3] <<http://cje.oxfordjournals.org/content/abstract/bei057v1>> .

76 Above n 72, 92.

77 Above n 10, 51.

78 Above nn 72 to 74 and accompanying text.

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(b) International comparison

Introducing a tax concession as a means of luring residents to return is not a novel idea. It is currently in use or has previously been used by a number of countries. Canada used to offer tax holidays for up to three years to its emigrants who returned to take up employment opportunities in the country.⁷⁹ Malaysia introduced tax incentives for returnees in its 2001 budget, which has reportedly had some success.⁸⁰ Switzerland currently offers a number of tax concessions to returning Swiss.⁸¹

This section examines the tax concessions utilised in New Zealand, Israel and Singapore specifically to establish that a tax concession is an appropriate option for Australia.⁸² New Zealand introduced such a concession in response to its skills shortages and the global mobility of skilled labour.⁸³ Israel introduced the concession following a change to a worldwide basis of taxation of residents and understanding that such a basis may place an onerous burden on returning Israelis.⁸⁴ Singapore introduced the concession in recognition of the need to remain internationally competitive,⁸⁵ particularly given its proximity to countries such as Malaysia, Thailand, China, India and Australia. Australia is experiencing all three issues faced by these countries and, therefore, a tax concession is considered appropriate as it responds to all.

1 New Zealand

New Zealand is perhaps the country that provides the most useful comparator for Australia given the similarity of its economy and especially, geographical proximity. New Zealand introduced tax concessions for returning New Zealanders only very recently but the idea has been the subject of public discussion and debate for a

79 B Lindsay Lowell, 'Policy Responses to the International Mobility of Skilled Labour' (ILO International Migration Papers 45, International Labour Office, 2001) 5.

80 Editorial, 'Reversing the Brain Drain', *New Straits Times* (Malaysia), 18 December 2003.

81 Federal Tax Law (Switzerland) art 14.

82 The concessions in all three countries are available to both returning residents and new immigrants. Only the aspects relating to returning residents are discussed here.

83 Minister of Finance Dr Michael Cullen, '2005-06 Budget Speech' (Speech delivered at the Parliament of New Zealand, Wellington, 19 May 2005) 9. See also, Dr Michael Cullen and David Cunliff, 'Reducing Tax Barriers to International Recruitment to New Zealand, A government Discussion Document' (November 2003).

84 Doron Herman, 'New immigrants Get Relief From Effects of Israeli Tax Reform' (2003) 29(8) *Tax Notes International*, 24 February 2003, 727-9.

85 Deputy Prime Minister and Minister for Finance, 'Second Reading Speech' Income (Amendment) Bill 2002 (Singapore) para 3(n).

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number of years.⁸⁶ The new measures are broadly similar to the Australian concession for temporary residents in that they provide for an exemption from New Zealand income tax for foreign sourced income of 'transitional residents'. The exemption applies for a period of 4 years commencing when the individual acquires a permanent place of abode in New Zealand. The key difference between the New Zealand and Australian concessions is that the New Zealand concession is available to individuals who were non-residents of New Zealand for the previous 10 years, thereby encompassing returning New Zealanders.

In introducing these measures, the Treasurer recognised that tax on offshore income is an important issue for highly skilled individuals who are internationally mobile. The new measures not only make New Zealand a more attractive destination from a tax perspective but are also expected to decrease the cost to businesses of international recruitment. New Zealand's comparatively high personal tax regime (which is very similar to Australia's) is considered a barrier to international recruitment with New Zealand businesses having to pay individuals recruited from overseas a higher salary to compensate them for their higher tax liability in New Zealand. A similar point was made by the Australian government in introducing the concession for temporary residents.⁸⁷

2 Singapore

Singapore introduced a 'Not Ordinarily Resident Taxpayer Scheme' in its 2002 budget, through which it offers tax concessions to qualifying individuals who come to work in Singapore.⁸⁸ Broadly, in order to qualify for the scheme, individuals must not have been a tax resident of Singapore for a period of at least 3 years prior to becoming a tax resident. Under the scheme, an individual pays income tax on only a portion of their Singaporean employment income. The taxable amount will be based on the number of days the individual spends outside Singapore and the individual must spend a minimum of 90 days outside Singapore for business purposes in order to qualify. As an integrity measure, individuals must pay a minimum tax rate of 10% on their total Singaporean income. As an additional concession, individuals are permitted to remit

86 The measures were introduced in *Taxation (Depreciation, Payment Dates Alignment, FBT and Miscellaneous Provisions) Act 2006* (New Zealand) 33, 83. Above n 83 for earlier government discussion.

87 Explanatory Memorandum, *Taxation Laws Amendment (2006 Measures No 1) Bill 2006* (Cth) 10.

88 Singapore Government, *Budget Statement 2002: A Budget for a Different World* (2002), Annexure 7 Not Ordinarily Resident Taxpayer Scheme.

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their overseas income earned prior to being employed in Singapore to the country tax free.⁸⁹

The scheme was introduced along with reductions in personal income tax rates in a bid to attract and retain talent in Singapore. Interestingly, the Singapore government did not see these measures as being limited to the retention of highly-skilled individuals, but also as a means of attracting and retaining businesses in Singapore. The government recognised that in knowledge-intensive industries, such as financial services, the business is essentially the people in it. As such, these businesses are going to locate themselves according to where their key people want to live and work. Tax systems are one factor in the decision-making process of businesses and individuals and the government views the tax arena as one that it can ensure is favourable towards Singapore.

3 Israel

Israel has what some may argue to be the greatest diaspora in the world. In 2002, the Israeli legislature approved a substantial overhaul of the tax system, including a move towards residence based taxation. Under the new regime, Israeli residents are taxed on their worldwide income and non-residents on their income with an Israeli source only.⁹⁰ The government recognised the possible harshness of the new rules and as part of the reforms, introduced tax concessions for returning residents.⁹¹ A returning resident is defined as someone who ceased being an Israeli tax resident and resided abroad for a continuous period of 3 years prior to becoming an Israeli resident again.

Returning residents are exempt from Israeli tax on interest, dividends, annuities, royalties and rental income derived as passive income from assets acquired while a non-resident. The exemption is granted for a period of 5 years from the date the resident returns to Israel. In addition, interest derived from foreign currency deposits with Israeli banks are exempt from tax for a period of 20 years, subject to some conditions. Where the returning resident owned a business while abroad, any business income is exempt from tax in Israel, provided the business was owned for a period of at least 5 years prior to the resident returning to Israel. The maximum exemption period is 4 years and is applicable whether the taxpayer derives the income

89 In the 2003 budget, the government introduced a general exemption from tax for foreign income remitted to Singapore where the income is earned in a jurisdiction with a minimum headline personal income tax rate of 15%: see Singapore 2003 Budget Speech, above n 64.

90 This is the same basis of taxation as Australia has, as discussed earlier in this article.

91 Above n 84.

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from actively managing the business or as passive income, but the business activities must remain abroad. Finally, any capital gains arising from the sale of assets acquired while abroad is exempt from Israeli tax, if sold within 10 years of the individual returning to Israel. Where the asset is sold after 10 years, a proportional exemption is still available. For example, if an asset is acquired 5 years prior to the individual returning to Israel and sold 20 years after their return, only two-fifths (ie 10/25) of the capital gain is subject to Israeli income tax.

(c) Tax concessions

The key concern in using a tax concession as an incentive is that it introduces yet another tax expenditure into the Australian tax system. Tax expenditures are essentially government spending programs disguised as tax law provisions.⁹² Some key scholars argue that tax incentives are ineffective and that direct subsidies would be more effective in providing assistance to those in need.⁹³ However, others such as Zelinsky argue that a tax expenditure is more efficient than a direct subsidy because of lower transaction costs.⁹⁴ In Australia, the main argument against tax expenditures is that they are the chief contributors to complexity in the tax system, moving us further away from the ideal of simplicity in tax.⁹⁵

While these arguments are not without merit, it would be detrimental to the economy and society if all tax incentives were removed from the system. Instead, each tax incentive should be evaluated individually to assess whether its benefits can be alternatively realised through direct assistance.

The main alternatives to the proposed tax concession would be a direct subsidy, grant or provision of services such as housing. Such intervention is unlikely to succeed with those individuals targeted by this tax concession. Neslen found in his survey of

92 Stanley Surrey, *Pathways to Tax Reform* (1973) vii.

93 See Stanley Surrey, 'Tax Incentives as a Device for Implementing Government Policy: A Comparison with Direct Government Expenditures', (1970) 83 *Harvard Law Review* 705, 734; Victor Thuronyi, 'Tax Expenditures: A Reassessment', (1988) *Duke Law Journal* 1155, 1155. For a concise discussion of the tax policy arguments against tax expenditures, see, Jennifer Venghaus, 'Tax Incentives: A Means of Encouraging Research and Development for Homeland Security?', (2003) 37 *University of Richmond Law Review* 1213, 1234-9.

94 Edward Zelinsky, 'Efficiency and Income Taxes: The Rehabilitation of Tax Incentives' (1986) 64 *Texas Law Review* 973, 975-6.

95 Rick Krever, 'Taming Complexity in the Australian Tax System' (2003) 25 *Sydney Law Review* 467, 488. The other key complaint, that tax incentives foster tax avoidance, is discussed later.

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Australian, New Zealander and South African expatriates that Australian expatriates were apathetic about government programmes for return migration, rating it on average the lowest of all factors when considering return migration.⁹⁶ Accordingly, it is unlikely that a one-off incentive such as travel or housing subsidies is likely to sway wandering Australians to return. On the other hand, the evidence clearly shows that tax is often a factor in the decision-making process of these individuals as to whether or not to return to Australia.⁹⁷ As such, a tax incentive is likely to be more effective in inducing Australian expatriates to return rather than a direct subsidy. This view accords with a recent study which found that tax expenditures do create 'framing effects'.⁹⁸ Zelinsky concluded that, for a significant proportion of the general public, whether a benefit is provided through direct intervention or tax relief does matter, even where they may be substantively and procedurally equivalent.⁹⁹ For these individuals, direct expenditure policies which are considered unacceptable become desirable when labelled as tax subsidies.¹⁰⁰ Given Neslen's findings discussed above, it appears that Zelinsky's conclusions will hold true for Australian expatriates. Consequently, it is argued that the proposed tax concession is not a 'substitutable tax expenditure'.

The 'framing effect' is a significant benefit of the proposed tax concession. The evidence shows that returning expatriates often have to accept a lower wage upon their return to Australia.¹⁰¹ Alternatively, businesses may be forced to pay returning residents higher wages in order to compete with their overseas wage or to compensate them for their high tax liability here. These unnecessarily high wages can be a significant cost to business, affecting profits, shareholder returns and the economy. The existence of a tax concession is likely to create a sense of goodwill in returning expatriates, as they feel that they are being compensated for bringing their highly-valued skills back to Australia. As such they may be more likely to accept a lower wage, ensuring that businesses are able to recruit the best people for the job at an appropriate cost.

96 Timothy Neslen, 'Intentions Governing Southern Hemisphere Migration: How Migrants' Preferences Illustrate the Different Orientation of Three National Groups Towards Their Homeland' (Research Paper, Oxford University, 2004) 39.

97 Above n 10, 53.

98 Edward Zelinsky, 'Do Tax Expenditures Create Framing Effects? Volunteer Firefighters, Property Tax Exemptions, and the Paradox of Tax Expenditure Analysis' (2004-2005) 24 *Virginia Tax Review* 797, 826. 'Framing effects' refers to individuals responding to labels rather than substance.

99 *Ibid.*

100 *Ibid.*

101 Above n 44, 38.

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There are tax expenditures which are exceptions to the general rule and in fact improve economic efficiency. This is thought to be the case where the incentive promotes non-profitable behaviour which creates 'spillover' benefits for the community.¹⁰² It is arguable that the proposed tax concession promotes non-profitable behaviour in that it aims to encourage individuals to leave higher paying jobs and possibly lower taxes with no direct compensation. However, the Australian society and economy gain immeasurably from this behaviour, for the reasons discussed in Section III.

The proposed tax concession may also be superior to direct intervention due to the simplicity in administering it. Other forms of government intervention will generally require administration by a separate body. For example, the abovementioned grants to encourage overseas researchers are administered by the Australian Research Council. While some tax incentives also require administration by a separate body – for example, the research and development concession is administered by both the Australian Taxation Office and the Industry Research and Development Board, the proposed tax concession will not only be administered by the Australian Taxation Office but can be incorporated into the existing self-assessment system and should not give rise to any additional administrative duties or costs.

Finally, past experience indicates that some tax incentives do work. Tax has long been not just a means of funding government expenditure but also a mechanism to reallocate economic resources and influence choices made by taxpayers. Tax concessions have been used in a number of ways to influence private decisions and foster optimal resource allocation. The best example of a long-standing tax concession in Australia (and many other countries) is for research and development (R&D) activities. To promote such activities which are considered to be of benefit to society and the economy, the tax system provides a tax deduction in excess of actual expenditure incurred, whereas, under the general tax rules, such expenditure is unlikely to be deductible at all for tax purposes. An independent evaluation of the R&D tax concession in mid-2003 found it to be an appropriate policy instrument and effective in meeting its purpose of encouraging additional business investment in R&D.¹⁰³ The proposed tax concession is similar to the R&D concession, in that they both promote non-profitable behavior for the benefit of the community. As such, the

102 Venghaus, above n 93, 1240.

103 Department of Industry, Tourism and Resources, R&D Tax Concession Program Evaluation <<http://www.industry.gov.au>> at 16 October 2005.

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success of the R&D concession may indicate that the proposed tax concession is an appropriate incentive.

Proposed tax concession

This final section discusses the elements of the tax concession which should be offered in Australia.

The primary tax concession which should be offered is an exemption from Australian tax for *all foreign source income* of returning residents (including capital gains). The exemption period should be half the individual's non-residence period, with a *minimum non-residence period* of 2 years and a lifetime *maximum exemption period* of 5 years. Further, the concession should only be available to taxpayers satisfying a *minimum income threshold* of \$70,000 of Australian-sourced income.

The proposed tax concession is limited to foreign-sourced income only and does not encompass lower taxes on Australian-sourced income for a number of reasons.¹⁰⁴ Firstly, there is an issue of equality. Reducing the tax liability on the Australian-sourced income of returning residents is and will be considered unfair, as the returning resident and domestic taxpayer would both be providing the same services in Australia, earning the same income but have different tax liabilities. Further, Australian-sourced income of a non-resident would be subject to Australian tax and it is incongruous that an Australian expatriate would be subject to tax on their Australian sourced-income while overseas but not upon their return. On the other hand, exempting foreign-sourced income is less likely to be perceived as unfair as this income would not be subject to Australian tax as long as the expatriate remained a non-resident. Limiting the exemption to foreign-sourced income only should not lower the effectiveness of the tax concession as there is the perception among expatriates that Australia has 'no right' to tax their accumulated foreign-sourced income.

The main issue that arises in limiting the tax concession to foreign-sourced income is that it provides an incentive for taxpayers to increase their foreign-sourced income at the expense of earning Australian-sourced income. This would lead to an unwanted loss to revenue. While further anti-avoidance measures may be designed to prevent such behaviour, it is considered that such measures would exponentially increase the

104 The benefit of the proposed tax concession may vary depending on the location of the taxpayer's foreign sourced income and the provisions of any applicable double tax agreements.

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complexity of the tax system for limited benefit, fuelling the argument against tax expenditures.¹⁰⁵ Instead, it is proposed that the lifetime maximum exemption period of five years is an adequate limitation on any potential exploitation of the concession and loss to revenue.¹⁰⁶ A longer or indefinite exemption period is not required to meet the purposes of the tax concession and will bring about the unwanted consequence of returning residents continuing to invest income offshore rather than in Australia in order to earn tax-free income from those investments. Further, it is also arguable that individuals who would exploit the tax concession can simply choose to remain offshore for a longer period, thereby avoiding Australian tax on foreign-sourced income regardless.

The minimum non-residence period is considered necessary for two reasons. Firstly, it should ensure that individuals do not leave Australia simply to access the concessions upon their return. This issue was raised in the Senate Committee Report where it was considered that a tax concession would be inappropriate as it would only encourage more Australians to leave in order to access the concession upon their return.¹⁰⁷ While it is highly unlikely that individuals will choose which country to live in *solely* for tax reasons,¹⁰⁸ the minimum non-residence period will minimise the likelihood of this happening. Further, as discussed above, the Australian economy will receive a double benefit from returning residents and, consequently, it is not detrimental if more Australians choose to go overseas provided that they return, which they should do if their reason for leaving was to obtain the tax concession upon returning. A second reason for incorporating a minimum non-residence period is because individuals who have only been overseas for a lesser period are unlikely to have gained the experience to make the contributions expected of returning residents discussed above. It is noted that the proposed minimum non-residence period of two years is significantly shorter than the New Zealand period of ten years. New Zealand tax policy advisers accepted that a shorter period was likely to better attract internationally mobile New Zealanders but suggested that a shorter period would increase the incentive to

105 See, above n 95, 488.

106 The potential for tax avoidance by disguising onshore income as offshore income was also considered in the introduction of the New Zealand concessions and a five year maximum exemption period was considered adequate in addressing the tax avoidance issue while achieving the tax policy objectives of the concession: Policy Advice Division, Taxation (Depreciation, Payment Dates Alignment, FBT and Miscellaneous Provisions) Bill – Officials’ Report to the Finance and Expenditure Committee on Submissions on the Bill (2006) 195. The maximum exemption period was amended to four years in the final legislation.

107 Above n 56, [7.7].

108 Above n 75, 3.

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emigrate.¹⁰⁹ As the purpose of the proposed concession is primarily to entice internationally mobile Australians, a shorter exemption period is therefore considered appropriate. For the reasons discussed above, it is considered that the potential creation of an incentive to emigrate should not be an issue.

The exemption period should be linked to the non-residence period to reflect the likelihood that Australians who have spent a longer period overseas are likely to provide greater benefits upon their return and should be rewarded accordingly. Further, individuals who have spent a longer period overseas are likely to require a longer period to assimilate back into Australia and get their financial affairs in order. A fixed length exemption period would not be able to address these issues.

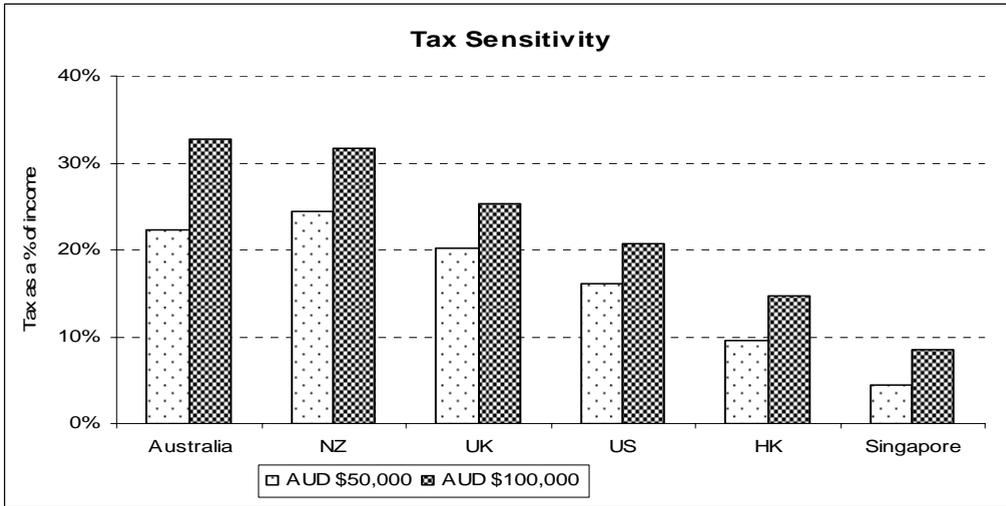
The minimum income threshold of \$70,000 of Australian-sourced income is required to ensure that the concession is only available to targeted returning residents. While this may raise the presumption that this is a tax concession for the rich and a barrier to equity, to dismiss the concession on those grounds would be a disservice to the Australian economy.¹¹⁰ Firstly, the discussion in Section III on the benefits of enticing residents to return is based on the premise that they are highly-skilled and experienced. As such, these individuals are likely to be high-income earners, commensurate to their qualifications. An income test is the *simplest* means of ensuring that only returning residents who bring with them the benefits discussed above are entitled to the concession. Secondly, imposing a minimum Australian-sourced income threshold should ensure that these individuals still contribute a reasonable amount of tax in Australia. Finally, as the following comparison shows,¹¹¹ high-income individuals are the most likely to suffer upon their return to Australia and its tax system, and therefore, be the most sensitive to variations in tax payable.

109 Above n 106, 197.

110 The government's earlier attempts at concessions for foreign workers were attacked on the grounds that they were tax concessions for rich foreign executives which was unfortunate when the research indicated otherwise. See, Senator Helen Coonan, 'Second Reading Speech', Taxation Law Amendment Bill (No 2) 2003 (Cth).

111 The chart depicts tax liability as a % of income for the local currency equivalents of AUD \$50,000 and AUD \$100,000 of taxable income. Source data obtained from each country's tax authority: Australia: <<http://www.ato.gov.au>>; New Zealand: <<http://www.ird.govt.nz>>; United Kingdom: <<http://www.hmrc.gov.uk>>; United States of America: <<http://www.irs.gov>>; Singapore: <<http://www.iras.gov.sg>> and Hong Kong: <<http://www.ird.gov.hk>>.

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As illustrated by the chart, Australia imposes the highest tax liability on income of AUD \$100,000 across the comparison countries and the second highest on income of AUD \$50,000. On income of AUD \$100,000, an individual's tax liability in Australia represents 32.71% of taxable income whereas in Singapore, the lowest taxing jurisdiction of the comparison countries, the tax liability on the Singapore dollar equivalent of AUD \$100,000 would represent only 8.51% of taxable income. Similarly, on AUD \$50,000 of income, an individual's tax liability in Australia would be 22.34% of income whereas in Singapore, tax liability would only amount to 4.48% of taxable income. More significantly, Australia has the highest increase in tax burden between the two income levels. In Australia, an additional 10.4% of income is paid in tax between the two income levels whereas in New Zealand, the increase is only 7.3%, in the UK 5.1%, 4.6% in the US, 5.3% in Hong Kong and 4% in Singapore. Therefore, although individuals at both levels of income suffer a high tax liability in Australia, the burden is greater at higher income levels and accordingly, it is suggested that higher income individuals will be more receptive to a tax concession.

Some critics may dismiss a comparison to the low-taxing jurisdictions of Singapore and Hong Kong on the grounds that Australians enjoy benefits such as government funded education, health care and social security through their tax dollars whereas these countries generally do not provide such services. However, the UK (with Australia's largest expatriate community) and the US (with Australia's third largest expatriate community) do provide its taxpayers with such benefits and as demonstrated in the chart, the Australian tax burden is higher than both of these countries, especially on income of AUD \$100,000. Accordingly, the tax sensitivity

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analysis applies to all the comparator countries being the main destination countries of Australian expatriates.

Conclusion

Ultimately, the assessment of a tax concession depends on whether it provides a net benefit to the Australian economy.¹¹² In its proposed formulation, the cost of the tax concession should be the revenue lost from the foreign-sourced income of a limited number of individuals for a limited period of time. This loss in revenue should be mitigated by the increase in revenue from tax on Australian-sourced income of the returning residents which should not be insignificant as the tax concession is targeted at high-income earners. On the other hand, the benefits that may be realised from the tax concession is an alleviation in the skills shortage problem and long-term economic development and growth. These benefits are likely to far outweigh the loss of revenue from introducing such a concession.

Australia has been and continues to be a fortunate country. Blessed with ample space, a beautiful country, good weather, a highly-educated and healthy society, secure and stable government, Australia easily attracts individuals to settle here. However, we must also respond to the changing times and acknowledge that a greater number of Australians are going overseas, creating a number of problems for the local economy. Gaps in the skilled labour market persist and are exacerbated by Australian emigration. Australian expatriates are not only highly-skilled but also high-income earners, resulting in a loss to revenue when they cease to be Australian residents. We are often losing our brightest minds to other countries, inhibiting future growth and development. Attracting highly-talented Australians to return is important to the local economy in the short-term but absolutely essential for ensuring Australia's continued growth and success in the longer term. A greater number of skilled workers not only permits countries to lower production costs and be more competitive, but they also generate knowledge that drives adaptability and economic growth.¹¹³ These individuals play an important role in motivating and developing future generations of Australians. A tax concession is an *effective* and *timely* response to the challenges created by Australian emigration and is required to entice overseas Australians home. Coupled with continued migration, increasing the number of returning Australians will ensure that Australia maintains its international competitiveness and is, indeed, the lucky country.

112 Australian Government Publication Services, Reform of the Australian Tax System: Draft White Paper (1985) 1.15.

113 Above n 79, 2.