



# Panel warns against expat tax rule

**Andrew Main**  
Taxation

A CRACKDOWN on how expat Australians are taxed announced by Treasurer Wayne Swan on budget night on May 12 has run into choppy waters in a Senate committee, according to a report tabled yesterday.

The Senate Economics Legislation Committee noted that the abolition of Section 23AG of the Income Tax Act, which covers people working offshore for between 91 days and two years, was going to create a compliance burden that in some cases was going to be out of proportion to the amount of tax revenue gained.

The bipartisan committee recommended bringing back at least three exemptions to the new rule, which Mr Swan said would net an extra \$675 million in tax over three years to 2013.

The tax move is aimed at some 11,000 expats who Treasury says are earning at least \$85,000 a year and pay "little or no tax at all" in Australia, according to Treasury submissions to the committee. However, it became clear at a recent committee hearing in

Canberra that any move to make Australians in that group pay tax in this jurisdiction will cause a lot of them to stay away for longer than two years — and thus cease to be liable to pay any Australian tax.

The 23AG exemption was brought in in 1986, and allows expats a tax holiday as long as they are paying tax in another jurisdiction. Its abolition would reinstate the need to pay tax at home, although a FITO (foreign income tax offset) showing that tax was paid offshore would reduce liability.

The first move is for the ATO to give an exemption that will spare backpackers from the new rule, by exempting the first "X" thousand dollars of offshore income. It also suggested limiting the new rule to "large employers", without defining their scale, and devising ways to prevent expats from being hit by Pay As You Go tax withholding, and corporates from being hit by double taxation of fringe benefits.

An accompanying note from Coalition committee members

Senator Alan Eggleston and Senator David Bushby called for a transition period before the proposal became law, describing the planned crackdown as "a rushed and poorly-thought-out measure on the part of the Rudd government with apparently little or no regard . . . given to the difficulties that the proposed short lead-in time to implementation will cause for those directly affected."

Yasser El-Ansary, general counsel for the Institute of Chartered Accountants in Australia, said his organisation was "disappointed that they haven't made a recommendation that transitional arrangements would be provided for". "Not having such an arrangement will result in a significant financial impost on employees and businesses," he said.

John Fauvet, a partner at PricewaterhouseCoopers, said the budget proposal had been put together with "indecent haste" with only six weeks being nominally allowed from the date of the announcement to implementation on July 1.