

Living Away From Home Allowance (LAFHA) Guidelines

Last updated: 16 October 2009

Policy assigned to: Director, Human Resources

Overview

Living Away From Home Allowance (**LAFHA**) is a concessional tax arrangement to compensate staff members for additional expenses and disadvantages experienced as a result of being required to temporarily live away from their usual place of residence in order to perform the duties of employment.

LAFHA comprises a regular tax-exempt amount for accommodation and for food. It is one of the benefit items that can be included in a staff member's salary package, subject to eligibility criteria. Under the University's salary packaging arrangements, LAFHA is deducted from base salary and any other loadings or allowances applicable to the role. If approved, LAFHA reduces a staff member's taxable income. It is not an allowance paid in addition to the salary applicable to the position.

These Guidelines set out:

- the conditions under which LAFHA benefits are offered to University staff members who meet both the University and ATO requirements, and
- the administrative processes applied by the University and the University's salary packaging provider.

Scope

LAFHA only applies to overseas and domestic staff members who:

- are temporarily living away from their usual place of residence in order to carry out employment duties with the University; and
- meet both the University and ATO requirements and who have been pre-approved by the University as eligible LAFHA staff members.

References

[Australian Taxation Office - FBT](#)

[University of Sydney \(Delegations of Authority – Administrative Functions\) Rule 2010](#)

[Recruitment and Selection Policy](#)

[Flexible Salary Packaging Policy](#)

[Relocation Policy](#)

[Visa and Work Rights Policy](#)

[Finance and Accounting Manual \(Travel Policy\)](#)

Guidelines

Definitions

ATO means the Australian Taxation Office which is the Government's principal revenue collection agency.

Child means an employee's child by birth, adopted child, step child or ex-nuptial child.

DIAC means the Department of Immigration and Citizenship.

Domestic staff member means a new appointee or existing staff member relocating entirely within Australia to perform duties of employment with the University.

Fringe Benefits Tax (FBT) means the tax payable by employers in respect of benefits provided to employees that are not in the nature of salary or wages. It is imposed at the highest marginal rate of personal income tax. FBT legislation classes the provision of certain benefits as "exempt benefits" or benefits having a "nil taxable value", FBT does not apply to such benefits and the benefit is not subject to Australian income tax.

International staff member means a new appointee or existing staff member relocating from overseas to perform duties of employment with the University.

Spouse means the legal spouse of a staff member or a person who, although not legally married to the staff member, lives with the staff member on a genuine domestic basis as the person's husband or wife (note: the Australian tax legislation does not currently recognise same sex relationships and therefore for the purposes of the taxation treatment of LAFHA and other relocation benefits, a same sex partner will not be recognised in determining the quantum of any tax benefits).

Staff member means a person employed by the University.

TSMIT means the Temporary Skilled Migration Income Threshold set by DIAC for a subclass 457 visa holder.

1. Aim

These Guidelines aim to ensure that:

- LAFHA is provided by the University on a fair and equitable basis;
- LAFHA is only paid to staff members who are living away from their usual place of residence, for a period of more than 21 days, in order to perform temporary duties of employment with the University;
- eligibility for LAFHA benefits is regularly reviewed during the staff member's period of temporary absence from their usual place of residence;
- all staff members are advised and understand their obligations with respect to the provision of LAFHA benefits; and
- LAFHA is only paid in circumstances that will not result in any FBT liability to the University.

2. Eligibility Criteria

The University will only consider a staff member to be living away from home and thus eligible for LAFHA where the following criteria are satisfied:

1. It can be clearly established that their assignment is of a temporary nature and that it is the staff member's intention to return to their usual place of residence following completion of the assignment. The following will be used by the University as a guide to a staff member's eligibility in this regard:
 - formal documentation outlining the duration and temporary nature of the position or assignment at the University, for example a fixed-term contract, and an expectation that the staff member will return home at its completion;
 - the extent to which the staff member maintains ties to their usual place of residence, including location of family members and personal assets; bank accounts, professional and sporting memberships; and
 - whether a home has been retained in the originating location.
2. The assignment is for a duration of:
 - for a domestic staff member: greater than 21 days but no more than two years from the time they start living away from home; or
 - for an international staff member: greater than 21 days but no more than four years from the time they start living away from home. This may also include Australian residents who return to Australia on a fixed term contract.
3. The staff member signs a declaration prior to commencement and thereafter on an annual basis, stating that he or she is living away from home.

The following staff are ineligible for LAFHA:

- casual staff members;
- secondary 457 visa holders, ie. where the visa was not sponsored by the University; and
- international staff members working in Australia on a working holiday visa.

3. Temporary Business (Long Stay) - subclass 457 Visa

Staff members entering Australia on a Temporary business (long stay) - subclass 457 visa are required at all times to meet and exceed the Temporary Skilled Migration Threshold (TSMIT) which may affect their ability to salary package LAFHA.

The University may be in breach of its obligations under the subclass 457 visa if the TSMIT is not met.

For subclass 457 visa holders, the salary must not include:

- accommodation or rental assistance, board, upkeep, meals or entertainment;
- incentives, bonuses or commissions;
- shares or bonus shares;
- travel, holidays, health care/insurance;
- vehicles or vehicle allowances;

- communications packages;
- Living Away from Home Allowance;
- superannuation contributions (either voluntary employee or compulsory employer contributions); and
- any other non-salary benefits.

In order for the University to consider salary packaging for a staff member on a subclass 457 visa, the staff member can only salary sacrifice LAFHA components above a minimum base salary stipulated by the University, of \$50,000 per annum.

Example: Salary for a Senior Lecturer on 457 visa

Base Salary per annum before tax and excluding any allowances	\$90,000
Minimum base salary (approved by the University)	\$50,000
Amount that can be Salary Sacrificed towards LAFHA components	\$40,000

The staff member may on an annual basis salary sacrifice up to \$40,000 towards rent, food, child education or home leave.

4. LAFHA cannot be provided retrospectively

Under ATO guidelines, any payment by the University to compensate a staff member for expenditure incurred in the past, relating to them having to live away from home, will generally be considered a “reimbursement”, rather than as an “allowance” which would qualify as a LAFHA.

5. Staff Member’s responsibilities

Staff members in receipt of LAFHA benefits have an obligation to:

- inform the Immigration and Relocation team where there is a change in:
 - family status;
 - rental arrangements;
 - length of assignment;
 - residency or visa status; or
 - the staff member’s intention to return to their declared usual place of residence; and
- submit the annual declaration advising that he or she is living away from their usual place of residence.

6. Staff Member’s should seek Independent Financial Advice

When entering into a LAFHA salary packaging arrangement, it is important that staff members fully understand their obligations and potential risk. The University and the University’s salary packaging provider, apply diligence and care in offering staff the option of salary sacrificing LAFHA. However, staff members who apply to salary sacrifice LAFHA bear the risk of any change in ATO LAFHA administration. If circumstances change and/or the ATO undertakes a review and as a result tax (including fringe benefits tax) is owing, then these taxes will be passed on to the individual staff member.

These guidelines can be changed with or without notice, prospectively to comply with University Policy or either prospectively or retrospectively, to comply with ATO provisions.

Individual circumstances will determine whether salary packaging LAFHA will be financially advantageous to a staff member. The University strongly recommends that staff seek independent financial advice regarding the legal and taxation requirements of salary packaging and LAFHA prior to applying.

For an example of an effective salary packaging arrangement please refer to Annexure A.

7. Cessation of LAFHA

A staff member's entitlement to LAFHA benefits will cease if:

- In the case of domestic staff members, a period of 2 years has lapsed from the time the staff member last lived in their usual place of residence.
- In the case of overseas staff members, a period of 4 years has elapsed from the time the staff member last lived in their usual place of residence.
- The staff member does not submit the annual statutory declarations or staff member questionnaire.
- ATO requirements change to exclude continuation of LAFHA.
- The University becomes aware that the staff member no longer intends to return to his/her usual place of residence. The University considers the following factors to be relevant in this regard:
 - stated intention – if the staff member informs the University of their intent to remain in Sydney on a permanent basis;
 - whether the staff member's personal details have been changed eg. driver's licence, electoral role etc.; and
 - residency status – if the staff member applies for *permanent residency*. If the application is refused by DIAC, the staff member will continue working to the rules and regulations of his/her current work permit and LAFHA can recommence subject to the staff member declaring that it is his/her intention to return to their usual place of residence.

8. LAFHA items that can be claimed

There are four components to LAFHA that can be claimed. The salary packaging procedures differ according to whether the component is deemed a regular or non-regular component.

Regular LAFHA components

- **Rent**

The accommodation component is a reimbursement of rental accommodation expenses incurred by the staff member during the period that he or she is living away from his or her usual place of residence.

The University can only pay or reimburse 'rent' up to the actual rental amount paid by the staff member to rent their accommodation and/or furniture and appliances. A copy of the rental agreement(s), substantiating the actual rental expenditure, must be provided prior to the commencement of any accommodation component.

- **Food**

The food component is intended to compensate staff members for additional food costs they might reasonably be expected to incur for themselves, any accompanying spouse and children.

The ATO specifies the amount of weekly food allowance which it considers reasonable, based upon family size. The 'reasonable weekly allowance' amount is updated annually. The first \$42 per adult per week and \$21 per child under 12 of food expenditure are deemed to be normal food costs. The University will only reimburse staff for the difference between the ATO's 'reasonable' weekly allowance amount and the normal food costs applicable to the staff member's family size, ie. the University will only compensate staff members for additional food costs due to living away from home. Allowances paid within these limits are generally exempt from both FBT and income tax.

Eligible LAFHA staff members can salary sacrifice up to a maximum of the [Maximum Tax Concessional amount](#) based upon their family size as varied from time to time. The rates are the same for domestic staff members and international staff members.

Non-Regular LAFHA components

- **Child Education Expenses**

In addition to the regular LAFHA components, international staff members on a subclass 457 visa may also package child education expenses for children in full time education at a school, college or university and who are under the age of 25 years at the time the benefit was provided (it does not include child care).

Education fees relating to the international staff member's children for the period of time they are on a 457 visa are FBT exempt if the following three conditions are met:

- education is on a full time basis;
- education is provided at a school, college or university or by a private tutor; and
- the child is under the age of 25.

Child education benefits which can be packaged include:

- education costs - school fees including application fees; cost of extra curricula activities held at the school and the cost of tutors; and
- non-fee costs including text books, stationery, calculators and school uniforms.

- **Home Leave**

International staff members on a subclass temporary 457 business visa are able to salary package one half of the cost of home leave per FBT year under a specific FBT exemption. The amount which can be packaged is as follows:

- 50% of the actual cost of travel to the home location, inclusive of meals and accommodation en route, for the international staff member and his or her family; or
- if travel is not to the home location, the international staff member may claim 50% of the cost of an economy return airfare (determined at the commencement of the holiday) to the home location to a maximum of what was actually spent on the travel.

The home leave must be three days or more in duration, the purpose of the international staff member's

travel must be entirely personal, ie. no portion of the trip may be business related, and the international staff member must return to Australia at the end of the leave.

Staff members who are salary packaging these items should note that they cannot claim an income tax deduction in their personal tax return for the item costs listed above.

Procedures

If the staff member does not have a pre-existing Salary Packaging Arrangement, a Salary Packaging Agreement and Application form will need to be completed prior to entering into a LAFHA arrangement. Refer to the University's [salary packaging information](#), with links to the Salary Packaging provider, on the HR website.

1. To apply for LAFHA - Rent and Food

The staff member must:

1. read the eligibility criteria above;
2. complete and print the LAFHA Expense Benefit form from the Salary Packaging provider's website;
3. forward the original signed LAFHA Benefit Form plus the documentation listed below to the HR Service Centre:
 - a. copy of birth certificates for each family member living with the staff member in the new location; and
 - b. copy of rental property agreement(s) in the staff member's name.

Note: if a staff member's situation changes eg. change of Australian residence then a new LAFHA Benefit Form needs to be completed and submitted showing the new details.

2. To apply for LAFHA - Child Education and Home Leave

Child Education

The staff member must:

1. incur the expense and keep the receipts/ tax invoices. Claims should be aggregated into one single claim (\$500 minimum) to avoid occurrence of small multiple claims. If the receipt(s) for the expense is in a foreign currency, evidence of the Australian dollar exchange rate as at the same day that the expense was incurred, will need to be provided; and
2. complete and print the LAFHA Expense Benefit form from the Salary Packaging provider's website and attach the original(s) of the incurred expense which should be in the staff member's name. These documents are then sent to the HR Service Centre.

Home Leave

The staff member must:

1. arrange the airfare to their home country or state or another destination for a holiday;

2. pay for the airfare and retain boarding passes for all flights and receipts for expenditure en route. If travel is not to the staff member's home location, a quote for the cost of a return economy airfare to the home location determined at the commencement of the leave also needs to be provided. If the receipt(s), or quote, for the expense is in a foreign currency, evidence of the Australian dollar exchange rate as at the same day that the expense was incurred, will need to be provided; and
3. complete and print the LAFHA Expense Benefit form from the Salary Packaging provider's website and attach the original(s) of the incurred expense which should be in the staff member's name. These documents are then sent to the HR Service Centre.

Contacts

The **Immigration and Relocation team** can be contacted in the following ways:

Telephone: **1300 850 484 – Free call**
 +61 2 8627 1300 - Direct
Email: hr.servicecentre@sydney.edu.au
Address: HR Service Centre
 K06, 1-3 Ross Street
 The University of Sydney NSW 2006
 Australia

Details of the University's Salary packaging provider are available at:
<http://www.usyd.edu.au/sydneypeople/working/salary-packaging.shtml>

Administration

1. This document was created based on a review of recruitment and relocation and immigration procedures in 2007/2008 and Salary Packaging and Visa Guidelines in 2008.

2. Management Responsibility

Vice-Chancellor & Principal

3. Implementation Responsibility

Director, Human Resources

4. Dates

Approval (version 1)	16/10/2009
Effect	16/10/2009
Review	
Approval (version 2)	
Effect	

5. Approval

Version 1	16/10/2009
Version 2	

6. Signatures

Approved by:

Name

Mr Michael Spence

Position

Vice-Chancellor & Principal

Date

16 October 2009

Annexure A

Effective salary sacrifice arrangement

An “**effective salary sacrifice arrangement**” is one under which a staff member agrees to receive part of his or her total remuneration as benefits before the staff member has earned the entitlement to receive that amount as salary or wages.

The ATO has confirmed that the following are the taxation consequences of an effective salary sacrifice arrangement (see Taxation Ruling TR 2001/10):

- the benefits provided to the staff member in lieu of salary will be fringe benefits or exempt fringe benefits. Where the benefits provided are fringe benefits, the provision of the benefit will be taxable to the employer in accordance with rules in the *Fringe Benefits Tax Assessment Act 1986*;
- fringe benefits received by a staff member in lieu of salary are not assessable to the staff member pursuant to section 23L of the *Income Tax Assessment Act 1936*; and
- the employer has no PAYG withholding obligations in relation to the benefits.

An “**ineffective salary sacrifice arrangement**” is one under which a staff member directs that an entitlement to receive salary or wages that has been earned already be paid in a form other than salary or wages. By contrast, where the salary packaging arrangement is an “ineffective salary sacrifice arrangement”, the tax consequences are as follows:

- the value of the benefits received are considered to have the nature of salary and wage income and will be assessable to the staff member (ie. the FBT provisions will not have effect); and
- the employer will have PAYG withholding obligations in relation to the benefits.

Tax savings will only arise to a staff member when they are paid a LAFHA under a salary packaging arrangement where it is paid pursuant to an effective salary sacrifice arrangement. This is because the value of the LAFHA will be a fringe benefit with a nil taxable value and not constitute salary or wages income to the staff member.

As such, when a staff member is paid a LAFHA by the University pursuant to a salary packaging arrangement, the LAFHA will only be paid in lieu of salary and wages that the staff member would otherwise be entitled to, **before** they are entitled to those salary and wages. The University will **not** pay a staff member a LAFHA in lieu of salary or wages that they already have an entitlement to receive.

Example – Personal taxation impact of an staff member receiving a LAFHA pursuant to an effective salary sacrifice arrangement

FACTS

- John Smith has been recruited from the United Kingdom (UK) to work for the University of Sydney for a period of 4 years. He is a UK national.
- He will relocate to Sydney, Australia for the duration of the assignment. After the end of the 4 year period he intends to return to his home in the UK.
- He will enter Australia on a temporary 457 visa. He will not apply for permanent residency.

- John’s wife and young child (age 3) will relocate with him from the UK for the entire 4 years.
- Upon arrival in Australia, John rents an apartment for himself and his family to stay in that is close to where he will be required to perform his employment duties. The monthly rental he has agreed to pay is \$200 per week.
- John is offered a total remuneration package of \$97,110 per annum., consisting of salary of \$83,000 per annum plus 17% superannuation which is \$14,110 per annum.
- After receiving a LAFHA application, the University determines that during his employment that he will be “living away from home” and agrees to pay him a LAFHA on a salary sacrifice basis.
- In accordance with this policy, the University determines that the LAFHA to be paid to John Smith will be \$465 per week (or \$24,180 per annum) consisting of these components:
 - reasonable accommodation component: \$200 per week
 - reasonable food component: \$265 per week

INDICATIVE TAX SAVINGS

For the 2007/08 income year, John Smith is approximately \$8,417 better off after tax by receiving the LAFHA in lieu of salary pursuant to an effective salary sacrifice arrangement.

This can be shown below:

	Non- packaged	Packaged
John Smith Remuneration		
Total Remuneration	\$97,110	\$97,110
LAFHA	nil	\$24,180
Superannuation	\$14,110	\$14,110
Cash Salary	\$83,000	\$58,820
Disposable Income (ie. salary after tax)		
Cash salary	\$83,000	\$58,820
Tax withheld	(\$21,545)	(\$13,128)
Salary after tax	\$61,455	\$45,692
LAHFA	nil	\$24,180
Total salary after tax plus LAFHA	\$61,455 (A)	\$69,872 (B)

Note: (B) less (A) = \$8,417

EXPLANATION OF TAX SAVINGS:

Under this salary sacrifice arrangement, John Smith foregoes an entitlement to salary to receive a LAFHA of \$24,180 per annum. The payment of a LAFHA is a fringe benefit. John does not pay income tax on the receipt of the LAFHA and it is not subject to PAYG withholding. The tax saving of \$8,417 is the amount of tax that John Smith would have paid had on \$24,180 additional salary had he not received a LAFHA of this amount in lieu of salary.

As the LAFHA consists only of the “exempt accommodation component” and the “exempt food component”, the payment of the LAFHA does not result in the payment of any FBT by the University.