



***CR 2013/65 - Income tax: assessable income:  
Australian Agency for International Development  
employees deployed to the Solomon Islands to  
provide Official Development Assistance***

 This cover sheet is provided for information only. It does not form part of *CR 2013/65 - Income tax: assessable income: Australian Agency for International Development employees deployed to the Solomon Islands to provide Official Development Assistance*

 This document has changed over time. This is a consolidated version of the ruling which was published on *7 August 2013*



## Class Ruling

### Income tax: assessable income: Australian Agency for International Development employees deployed to the Solomon Islands to provide Official Development Assistance

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#### **ⓘ This publication provides you with the following level of protection:**

This publication (excluding appendixes) is a public ruling for the purposes of the *Taxation Administration Act 1953*.

A public ruling is an expression of the Commissioner's opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes.

If you rely on this ruling, the Commissioner must apply the law to you in the way set out in the ruling (unless the Commissioner is satisfied that the ruling is incorrect and disadvantages you, in which case the law may be applied to you in a way that is more favourable for you – provided the Commissioner is not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

## What this Ruling is about

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1. This Ruling sets out the Commissioner's opinion on the way in which the relevant provisions identified below apply to the defined class of entities, who take part in the scheme to which this Ruling relates.

### Relevant provisions

2. The relevant provisions dealt with in this Ruling are:
- section 23AG of the *Income Tax Assessment Act 1936* (ITAA 1936)
  - section 6-5 of the *Income Tax Assessment Act 1997* (ITAA 1997).

All subsequent legislative references are to the ITAA 1936 unless otherwise indicated.

## **Class of entities**

3. The class of entities to which this Ruling applies comprises Australian Agency for International Development (AusAID) employees who are deployed to the Solomon Islands to deliver Australian Official Development Assistance (ODA).
4. The class of entities includes those AusAID employees who, while on deployment to the Solomon Islands, return to Australia for a period during which they utilise leave that has wholly accrued from their service in the Solomon Islands.
5. This Ruling does not apply to AusAID employees:
  - who cease to be an Australian resident for tax purposes during their deployment; or
  - who, while on deployment to the Solomon Islands, return to Australia for a period during which they utilise leave that has wholly or partly accrued from service in Australia.
6. Employees who belong to the class of entities to which this Ruling applies are referred to as Solomon Islands AusAID employees.

## **Qualifications**

7. The Commissioner makes this Ruling based on the precise scheme identified in this Ruling.
8. The class of entities defined in this Ruling may rely on its contents provided the scheme actually carried out is carried out in accordance with the scheme described in paragraphs 11 to 21 of this Ruling.
9. If the scheme actually carried out is materially different from the scheme that is described in this Ruling, then:
  - this Ruling has no binding effect on the Commissioner because the scheme entered into is not the scheme on which the Commissioner has ruled; and
  - this Ruling may be withdrawn or modified.

## **Date of effect**

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10. This Ruling applies from 1 July 2013. However, this Ruling will not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of this Ruling (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10).

## Scheme

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11. The following description of the scheme is based on information provided by the applicant. The following documents, or relevant parts of them form part of and are to be read with the description:

- Application for Class Ruling dated 18 January 2013, including the AusAID Overseas Conditions of Service Policy (updated Sept 2012);
- Additional information provided in email correspondence from the applicant dated 8 April 2013 and 22 April 20213;
- *Memorandum of understanding between the Government of Australia and the Government of Solomon Islands on development cooperation*, (the MOU); and
- *Agreement between Solomon Islands, Australia, New Zealand, Fiji, Papua New Guinea, Samoa and Tonga concerning the operations and status of the police and armed forces and other personnel deployed to Solomon Islands to assist in the restoration of law and order and security [2003] ATS 17 (the RAMSI Agreement).*

12. AusAID is the key Australian Government agency responsible for delivering Australian ODA. Australian ODA is assistance delivered through the Australian Government's overseas aid program that is administered by the Department of Foreign Affairs and Trade or AusAID.

13. Solomon Islands AusAID employees are Australian public servants employed by AusAID. They are directly involved in the delivery of ODA, or in the management and corporate services in connection to the delivery of ODA in the Solomon Islands.

14. Solomon Islands AusAID employees deployed to assist with the Regional Assistance Mission to the Solomon Islands (RAMSI) are covered by the RAMSI Agreement.

15. Solomon Islands AusAID employees who are deployed to work on the Bilateral Aid Program are covered by the MOU.

16. Solomon Islands AusAID employees are at all times engaged in service that is directly attributable to the delivery of ODA.

17. Solomon Islands AusAID employees will be deployed to the Solomon Islands for a period of at least 91 days.

18. The normal period of deployment will be for up to three years, with the option to revert to two years.

19. In addition to salary, Solomon Islands AusAID employees are entitled to some or all of the following allowances:

- transfer allowance;
- cost of living allowance;
- cost of posting allowance;
- hardship allowance;
- special location supplement; and
- additional household allowance.

20. In accordance with the AusAID Overseas Conditions of Service Policy, employees posted to the Solomon Islands are entitled to ten days of additional hardship leave per annum, over and above their normal annual leave entitlement as an AusAID employee.

21. There is no comprehensive tax treaty or other agreement between Australia and the Solomon Islands Government dealing primarily with taxation.

## Ruling

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22. The salary and allowances referred to in paragraph 19 of this Ruling, derived by a Solomon Islands AusAID employee, are ordinary income under section 6-5 of the ITAA 1997.

### Exempt income

23. Subject to paragraphs 24 to 26 of this Ruling, the salary and allowances referred to in paragraph 19 of this Ruling, derived by a Solomon Islands AusAID employee, are exempt from tax under section 23AG where:

- the Solomon Islands AusAID employee has been engaged, or is taken to have been engaged, in foreign service in the Solomon Islands for a continuous period of at least 91 days,
- the salary and allowances of the Solomon Islands AusAID employee are derived from that foreign service, and
- the continuous period of service in the Solomon Islands is directly attributable to the delivery of Australian ODA.

**Assessable income**

24. The salary and allowances derived by a Solomon Islands AusAID employee are included in their assessable income and are not exempt from tax under subsection 23AG(1) where:

- the employee is engaged in a continuous period of foreign service of less than 91 days;
- the salary and allowances are not foreign earnings derived from that foreign service, as defined in subsection 23AG(7); or
- the employee has a change in circumstances and no longer satisfies the exemption conditions. The exemption will still apply for the period that the employee satisfies the exemption conditions.

25. The transfer allowance is only exempt from tax under subsection 23AG(1) to the extent that it is derived from the foreign service. Therefore, any part of the transfer allowance that is in respect of expenses that are attributable to the period that a Solomon Islands AusAID employee is engaged in foreign service, is exempt from tax. However, any part of the transfer allowance that is in respect of expenses that are attributable to a period prior to the commencement or after the completion of foreign service is not exempt from tax.

**Exemption with progression**

26. The salary and allowances that are exempt from tax under paragraph 23 of this Ruling are nevertheless taken into account in calculating the Australian tax on other assessable income derived by the Solomon Islands AusAID employee (subsection 23AG(3)).

**Example 1**

27. *In the 2012-2013 income year, Daniel, an employee derives the following types of income:*

- *Australian employment income of \$60,300;*
- *allowable deductions against Australian income of \$300;*
- *foreign exempt employment income of \$30,100; and*
- *expenses directly related to exempt foreign employment income of \$100.*

*Assume that Daniel has appropriate private patient hospital cover for Medicare levy surcharge purposes.*

The total amount of Australian tax payable will be calculated with reference to the following formula:

$$\frac{\text{(notional gross tax)}}{\text{Notional gross taxable income}} \times \text{Other taxable income}$$

Step 1

Daniel's **notional gross taxable income** is \$90,000  $([\$60,300 - \$300] + [\$30,100 - \$100])$ .

Step 2

The **notional gross tax** is \$22,597 (the normal Australian income tax and Medicare levy payable on a taxable income of \$90,000).

Step 3

The **other taxable income** is \$60,000 (Australian employment income).

Step 4

The Australian tax payable (including Medicare levy) on Daniel's Australian income is:

$$(\$22,597/\$90,000) \times \$60,000 = \$15,064.66$$

**Note:** this calculation is based on the 2012-2013 income tax rates. As the income tax rates for future years may change, you should refer to the tax rates for that current income year.

## Appendix 1 – Explanation

**❶** *This Appendix is provided as information to help you understand how the Commissioner's view has been reached. It does not form part of the binding public ruling.*

28. Subsection 6-5(2) of the ITAA 1997 provides that the assessable income of a resident taxpayer includes ordinary income derived directly or indirectly from all sources, whether in or out of Australia, during the income year.

29. Salary and wages are ordinary income for the purposes of subsection 6-5(2) of the ITAA 1997.

30. Subsection 6-15(2) of the ITAA 1997 provides that if an amount is exempt income, then it is not assessable income.

31. Section 11-15 of the ITAA 1997 lists those provisions dealing with income which may be exempt. Included in this list is section 23AG of the ITAA 1936 which deals with exempt foreign employment income.

### Exempt income

32. Section 23AG provides an exemption from Australian tax on the foreign earnings derived by an Australian resident individual from foreign service in which they have been engaged continuously for at least 91 days.

33. However, subsection 23AG(1AA), provides that those foreign earnings will not be exempt under section 23AG unless the continuous period of foreign service is directly attributable to an activity that is listed in subsection 23AG(1AA) (see paragraphs 75 to 80 of this Ruling).

34. Further, certain foreign earnings that meet the requirements of subsection 23AG(1) and 23AG(1AA) may not be exempt from tax under section 23AG if the amount is exempt from income tax in the foreign country only because of any of the reasons listed in subsection 23AG(2) (see paragraphs 81 to 86 of this Ruling).

35. Accordingly, the basic tests for the exemption of foreign employment income in section 23AG are:

- the taxpayer must be a 'resident of Australia';
- the taxpayer must be 'engaged in foreign service';
- the foreign service must be for a 'continuous period of not less than 91 days';
- the taxpayer must derive 'foreign earnings' from that 'foreign service';
- the foreign service must be directly attributable to an activity that is listed in subsection 23AG(1AA); and

- the foreign earnings must not be covered by subsection 23AG(2).

## **Resident of Australia**

36. The determination of a person's residency status depends on that person's circumstances and is a determination made in relation to each year of income. For further information see Taxation Ruling IT 2650. This Class Ruling only applies to Solomon Islands AusAID employees who remain Australian residents for tax purposes during their deployment to the Solomon Islands.

## **Engaged in foreign service**

37. 'Foreign service' is defined as 'service in a foreign country as the holder of an office or in the capacity of an employee' (subsection 23AG(7)).

38. The term 'employee' is defined within subsection 23AG(7) to include 'a person employed by a government or an authority of a government or by an international organisation'.

39. Solomon Islands AusAID employees are considered to meet the above definition of an 'employee'.

40. Deployment of AusAID employees to the Solomon Islands constitutes 'foreign service' as each employee is undertaking 'service in a foreign country as a holder of an office or in the capacity of an employee'.

## **Continuous period of not less than 91 days**

41. Each Solomon Islands AusAID employee is expected to serve in the Solomon Islands for a period of at least 91 days. These periods of 'foreign service', if met, satisfy the test that Australian residents working overseas must be engaged in foreign service 'for a continuous period of not less than 91 days'.

42. Should a Solomon Islands AusAID employee depart the Solomon Islands prior to the completion of 91 days of continuous service, that employee will normally be ineligible for the exemption.

43. However, in certain instances, an employee who departs the Solomon Islands prior to serving the necessary number of days, may still qualify for exemption if they return to continue their posting at a later date (refer Taxation Determination TD 2012/8).

44. If an employee dies at a time when they have been engaged in foreign service for a continuous period of less than 91 days, subsection 23AG(1A) deems the employee to have satisfied the 91-day rule if they would otherwise have continued to be engaged in that foreign service and met the 91-day rule.

**Temporary absences forming part of a period of foreign service**

45. Subsection 23AG(6) treats certain temporary absences from foreign service as forming part of the period of foreign service. The Commissioner's view on the application of that subsection is reflected in TD 2012/8.

46. Absences which form part of the period of foreign service include absences taken in accordance with the terms and conditions of employment because of accident or illness or recreation leave.

47. 'Recreation leave' is leave in the nature of paid holidays to which an employee has accrued an entitlement. Usually it is the employee's accrued annual leave. Leave which fits this description is 'recreation leave', even if it is not called this.

48. However, recreation leave does not include:

- leave that is not in the nature of paid holidays, such as weekends, public holidays, rostered days off, days off due to part time arrangement, flex-days, 'compulsory lay-off/over days', 'grounded days' and days off in lieu;
- purchased leave;
- maternity and parental leave;
- leave wholly or partly attributable to a period of service or employment other than the foreign service;
- long service leave, furlough, extended leave or leave of a similar kind (however described); or
- leave without pay or on reduced pay.

49. According to TD 2012/8, while weekends, public holidays, rostered days off, days off due to part time arrangements, flex-days, 'compulsory lay-offs/over days', 'grounded days' and days off in lieu are not recreation leave for the purposes of subsection 23AG(6), a person will not be treated as absent from foreign service on these days. This is the case regardless of whether these days are spent in the country where the person is performing the foreign service or in Australia or a third country. (See paragraph 6 of TD 2012/8).

50. According to TD 2012/8, maternity leave and parental leave are not 'recreation leave' and are not covered by paragraph 23AG(6)(a). These leave types are distinct categories of leave each with a distinct rationale. (See paragraphs 60 to 62 of TD 2012/8.)

51. Whilst subsection 23AG(6) provides that extended leave is not part of recreation leave, TD 2012/8 concludes that additional recreation leave entitlements granted to employees posted overseas are not extended leave where the additional leave is reasonable. For example, where it is granted due to the hardship involved in the postings resulting in the need for more rest and recreation.

52. The additional hardship leave is granted to Solomon Islands AusAID employees in recognition of the difficult environment in which the employees are expected to live and work. It is considered that the ten days per annum of additional hardship leave is reasonable.

53. Accordingly, the additional hardship leave days are temporary absences from duty authorised by the terms and conditions of the employee's foreign service which will not break the continuous period of foreign service.

54. According to paragraph 55 of TD 2012/8, purchased leave cannot be treated as part of a period of foreign service. When a person purchases leave, they accept a reduction in salary in consideration for additional leave. Therefore purchased leave is not treated as foreign service because it is, in essence, leave without pay for the purposes of subparagraph 23AG(6)(a)(iii). Additionally, purchased leave will in some cases be extended leave, which, by virtue of subparagraph 23AG(6)(a)(ii), is not treated as foreign service.

55. Paragraph 23AG(6)(b) provides that a period during which a person is engaged in foreign service includes a period during which the person is, in accordance with the terms and conditions of that service, 'absent from work because of accident or illness'. This applies if in accordance with the terms and conditions of the foreign service the person is absent on sick leave or other leave such as convalescence leave, because they are ill or have had an accident, regardless of whether the accident or illness is caused by the foreign service. (See paragraph 57 of TD 2012/8 and examples 5 to 8 of the TD).

56. TD 2012/8 concludes that paragraph 23AG(6)(b) also applies if the person takes leave because of an accident or illness of another person, including the death of another person. Accordingly, a visit to Australia or a third country for such a reason, in accordance with the terms and conditions of the foreign service, is treated as forming part of the person's period of continuous foreign service.

57. According to TD 2012/8 there is no limit to the period of absence that can be treated as foreign service under paragraph 23AG(6)(b), provided that the leave is during the scheduled period of foreign service, and is allowed under the terms and conditions of the foreign service. This is the case regardless of whether the absence is on full pay, on reduced pay or without pay. Paragraph 23AG(6)(b) applies independently of subparagraph 23AG(6)(a)(iii).

58. However, an absence from work on maternity leave or parental leave cannot be described as an absence 'because of accident or illness' for the purpose of paragraph 23AG(6)(b). As concluded by TD 2012/8, a period of maternity leave or parental leave does not come within the extended meaning of 'engaged in foreign service' in subsection 23AG(6) and so will constitute a break in foreign service. (See paragraphs 63 to 67 of TD 2012/8).

**Temporary work related absences not breaking the period of foreign service: excessive administrative test**

59. TD 2012/8 provides that if a person engaged in foreign service is required by their employer to spend a short time in Australia or in another foreign country during a period of foreign service for reasons directly related to that person's continuing foreign service engagement, that time will be treated as part of the person's continuous period of foreign service **provided it is not excessive by comparison with the scheduled period of foreign service**. For example, this will apply to time spent to attend conferences, training sessions or briefing sessions.

60. TD 2012/8 provides that what is considered excessive will depend on the circumstances (see examples 11 and 12 of TD 2012/8 and paragraphs 71 to 73 of the TD). When determining whether the total days spent outside of the country of foreign service are excessive, all work related absences and available days (see paragraph 73 of the TD) spent outside of the country of foreign service will be aggregated.

**Temporary absences not breaking the period of foreign service: the 1/6 legislative rule**

61. Where an employee takes leave other than:

- temporary absences that form part of a period of foreign service (discussed above); or
- temporary work related absences not breaking the period of foreign service under the excessive administrative test,

they need to determine whether the continuity of service can be maintained under the 1/6 legislative rule (subsection 23AG(6A)).

62. The 1/6 legislative rule allows two or more periods of foreign service to be added together and treated as a continuous period of foreign service, unless, at any time, the total period of absence (in days) between the periods of foreign service exceeds 1/6 of the total number of days of foreign service.

63. If the period of absence exceeds 1/6 of the total period of foreign service at any time, continuity of foreign service is broken. An employee will begin a new period of foreign service when he or she next engages in foreign service and must determine whether that period of foreign service lasts for at least 91 continuous days (subsection 23AG(6A)).

64. The 1/6 legislative rule should not be confused with the excessive administrative test outlined above. The 1/6 legislative rule in subsection 23AG(6A) permits two or more periods of foreign service to constitute a continuous period of foreign service where continuity would be otherwise broken by absence. Absences between the periods of foreign service under the 1/6 legislative rule do not form part of the continuous period of foreign service. In contrast, the excessive administrative test permits what would otherwise be a break in the foreign service to be included in a continuous period of foreign service, where that absence is work related and not excessive. (For the 1/6 legislative rule see example 13 of TD 2012/8 and paragraphs 74 to 77 of the TD).

### **Foreign earnings**

65. The definition of 'foreign earnings' is contained in subsection 23AG(7), which provides that:

**foreign earnings** means income consisting of earnings, salary, wages, commission, bonuses or allowances, or of amounts included in a person's assessable income under Division 83A of the *Income Tax Assessment Act 1997* (about employee share schemes), but does not include any payment, consideration or amount that:

- (a) is included in assessable income under Division 82 or Subdivision 83-295 or Division 301, 302, 304 or 305 of the *Income Tax Assessment Act 1997*; or
- (b) is included in assessable income under Division 82 of the *Income Tax (Transitional Provisions) Act 1997*; or
- (c) is mentioned in paragraph 82-135(e), (f), (g), (i) or (j) of the *Income Tax Assessment Act 1997*; or
- (d) is an amount transferred to a fund, if the amount is included in the assessable income of the fund under section 295-200 of the *Income Tax Assessment Act 1997*.

66. However, the exclusions to the definition of 'foreign earnings' in paragraph 65 of this Ruling are not relevant to this scheme as they relate to pensions, annuities, employment termination payments and other similar amounts.

67. The remuneration of Solomon Islands AusAID employees takes the form of an annual salary entitlement and the payment of various allowances.

68. The salary and allowances received by the employees are types of income that are included in the definition of 'foreign earnings' in subsection 23AG(7).

69. Whilst the salary of the employees may be paid into financial institutions in Australia, those 'earnings' are still considered 'foreign earnings'.

**From that foreign service**

70. To qualify for the exemption in section 23AG the 'foreign earnings' must be derived 'from that foreign service'. This does not mean that the foreign earnings need to be received at the time of engaging in foreign service. The important test is that the foreign earnings need to be attributable to that period of service in a foreign country rather than to a period before or after the period of foreign service.

71. In the case of allowances paid after a person returns to Australia that relate to the period of foreign service, such allowances are treated as foreign earnings derived from that foreign service. Also, any advances against salary or allowances paid to the person prior to the undertaking of foreign service would be treated as foreign earnings from foreign service if they arise from the undertaking of that foreign service.

72. The salary that is paid when taking recreation leave or long service leave that accrued during the period of foreign service is also considered to be foreign earnings from that service even though the recreation leave or long service leave may be taken after the completion of the foreign service.

73. The following allowances received by Solomon Islands AusAID employees are considered to be exempt as they are derived from that foreign service in the Solomon Islands:

- cost of living allowance;
- cost of posting allowance;
- hardship allowance;
- special location supplement; and
- additional household allowance.

74. The transfer allowance that is attributable to a period prior to the commencement or after the completion of the foreign service (paid to cover costs such as accommodation costs in Australia prior to posting; taxi fares to and from airports in Australia; loss on sale of motor vehicle (or storage of motor vehicle) and purchase of special equipment and clothing requirements), is not attributable to the period where the Solomon Islands AusAID employee is engaged in service in a foreign country, and not exempt from tax under subsection 23AG(1).

**Specific employment activities**

75. Subsection 23AG(1AA) restricts the foreign earnings that are exempt from tax to earnings where the continuous period of foreign service is directly attributable to any of the following:

- (a) the delivery of Australian official development assistance by the person's employer;

- (b) the activities of the person's employer in operating a public fund covered by item 9.1.1 or 9.1.2 of the table in subsection 30-80(1) of the *Income Tax Assessment Act 1997* (international affairs deductible gift recipients);
- (c) the activities of the person's employer, if the employer is exempt from income tax because of paragraph 50-50(c) or (d) of the *Income Tax Assessment Act 1997* (prescribed institutions located or pursuing objectives outside Australia);
- (d) the person's deployment outside Australia as a member of a disciplined force by:
  - (i) the Commonwealth, a State or a Territory; or
  - (ii) an authority of the Commonwealth, a State or a Territory;
- (e) an activity of a kind specified in the regulations.

76. Draft Taxation Ruling TR 2013/D3 provides that, in the context of paragraph 23AG(1AA)(a), the delivery of Australian official development assistance (ODA) by an employer refers to programs for which the funding has been (or would properly be) classified by the Australian government as ODA for the purposes of the Australian Government's Aid Budget (embodying Australia's overseas aid program) or reporting to the Organisation for Economic Co-operation and Development.

77. In the context of paragraph 23AG(1AA)(a) 'delivery' means the act of providing or giving the relevant Australian ODA by the employer; that is, the act of providing the project or program or giving the assistance that is part of Australian ODA. (TR 2013/D3 paragraph 5)

78. According to TR 2013/D3 an employee's foreign service is 'directly attributable to' the activities of the employer where the requisite activities of the employer are the immediate and controlling reason why the employee is engaged in that foreign service. This condition must be satisfied throughout the continuous period of foreign service in respect of which the foreign earnings are derived before the earnings can be eligible for exemption under section 23AG.

79. AusAID, an Australian government agency, is delivering Australian ODA in the Solomon Islands.

80. As this Ruling only applies to Solomon Islands AusAID employees who are engaged in the delivery of Australia's ODA program for the period of their deployment to the Solomon Islands, subsection 23AG(1AA) does not prevent the exemption provided by subsection 23AG(1) from applying.

**Certain foreign earnings not exempt**

81. Subsection 23AG(2) provides that no exemption is available under subsection 23AG(1) in circumstances where an amount of foreign earnings derived in a foreign country is exempt from tax in the foreign country solely because of:

- a double tax agreement or a law of a country that gives effect to such an agreement (paragraphs 23AG(2)(a) and (b));
- a law of that foreign country which generally exempts from, or does not provide for, the imposition of income tax on income derived in the capacity of an employee, income from personal services or any other similar income (paragraphs 23AG(2)(c) and (d)); or
- a law or international agreement dealing with diplomatic or consular privileges and immunities, or privileges and immunities of persons connected with international organisations (paragraphs 23AG(2)(e), (f) and (g)).

82. There is currently no tax treaty between Australia and the Solomon Islands.

83. AusAID does not meet the definition of an International Organisation (section 5 of the *International Organisations (Privileges and Immunities) Act 1963*) as AusAID is established solely in Australia and Australia is the only member.

84. Article 16.6 of the RAMSI Agreement provides that personnel deployed to the Solomon Islands as part of RAMSI shall be exempt from taxation by the Solomon Islands government on their pay and other emoluments.

85. Article 10.1 of the MOU similarly grants Australian Project personnel with an exemption from taxation by the Solomon Islands government on their salary and allowances.

86. Accordingly, the foreign earnings of the Solomon Islands AusAID employees are exempt in the Solomon Islands for a reason other than those listed in subsection 23AG(2). Therefore, subsection 23AG(2) will not apply to deny the exemption under subsection 23AG(1).

**Exemption with progression**

87. The 'foreign earnings' of Solomon Islands AusAID employees that are exempt from Australian tax under section 23AG are nevertheless taken into account in calculating the Australian tax on other assessable income derived by the employee (subsection 23AG(3)).

88. Tax on other assessable income will be calculated by applying to the non-exempt income (for example, Australian salary and investment income), the notional average rate of tax payable on the sum of exempt income and non-exempt income.

89. In calculating these amounts, any deductions that relate to the exempt income are allowed as if the exempt income was assessable income. That is, expenses which relate directly to earning income in the Solomon Islands are deductible from that income.

## **Appendix 2 – Detailed contents list**

90. The following is a detailed contents list for this Ruling:

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*Previous draft:*

Not previously issued as a draft

*Related Rulings/Determinations:*

IT 2650; TR 2006/10;  
TR 2013/D3; TD 2012/8;

*Subject references:*

- exempt income
- foreign income
- foreign income deductions
- foreign salary & wages
- foreign source income
- international tax
- overseas countries
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- residence of individuals
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