

MEDIA RELEASE**(For immediate release)****Punitive Backpacker Tax challenged in court action*****Claim against Federal Government alleges backpacker tax breaches international tax treaties***

Sydney, 4 December 2017 – The validity of the Federal Government’s controversial Backpacker Tax has been brought into question following legal action commenced today on behalf of working holidaymakers from eight countries, including the United Kingdom and the United States.

The action against the Federal Government has been initiated by Taxback.com, an international tax accounting firm that provides global tax refund and tax return services.

Separate to the action, Taxback.com has also agreed to enter into dialogue with the Australian Government following constructive correspondence with the Australian Government Solicitor in an effort to resolve the issue outside court.

The company argues that the Backpacker Tax introduced in January 2017 contravenes non-discrimination clauses built into tax treaties that Australia has signed with eight countries: the UK, the US, Germany, Finland, Chile, Japan, Norway and Turkey.

These clauses prohibit unequal tax treatment of citizens from these countries, including working holidaymakers, compared with Australians. International tax treaties signed by Australia override domestic tax laws.

Taxback.com Commercial Director, Eileen Devereux, said the action was an important step to protect foreign workers and Australia’s reputation as a working holiday destination.

“Having lodged our pre-action letter, we have been extremely encouraged by the willingness of the Australian Government to come to the table for talks. It is our preference to resolve this issue through a mediated solution and we look forward to collaborating on this,” she said.

“Our starting point is that by discriminating against foreign workers the tax is fatally flawed. The tax unfairly targets working holidaymakers. It runs in direct conflict with Australia’s obligations under multiple international tax agreements. In doing so, it also harms the reputation of Australia’s tourism sector.

“There’s no doubt that the Backpacker Tax has left a sour taste in the mouths of many visitors, and that can only harm Australia’s ability to attract visitors in future. This is why we are asking the Australian Government to reconsider its position on this matter.”

In addition to conflicting with Australia’s international tax treaties, Devereux said that the tax should be amended as it targets some of the poorest taxpayers in Australia.

“Many Backpackers become de-facto Ambassadors for Australia and Australian culture. Not only does the Backpacker Tax impose higher taxes on these Ambassadors based on their nationality, it also hurts some of the poorest taxpayers in the country.

“Collectively, backpackers contribute more than \$3.5 billion to the Australian economy every year. By treating backpackers unfairly, Australia will lose out as it will miss out on these working holidaymakers, and damage its positive image abroad. The tax is also counterproductive as it hurts Australian companies that need to fill their job vacancies with these workers.”

The Backpacker Tax was brought in through the Income Tax Rates Amendment (Working Holiday Maker) Reform Act 2016. The law, as it currently stands, imposes a higher rate of tax on foreigners who enter Australia and earn income on a 417 or 462 Working Holiday Visa – the visas typically used by backpackers on a working holiday.

Australia has tax treaties in place with its major trading partners, and almost all contain a non-discrimination clause that prohibits unequal tax treatment of the citizens of these countries. For example, Article 25 of the tax treaty between Australia and the UK states:

Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected.

The legal action has been filed in the Queensland Federal Court and seeks ‘declaratory relief’ from the Backpacker Tax for citizens of the eight affected countries – in effect, rendering them exempt from the tax.

Visitors from the eight countries account for approximately 50% of all visitors who come to Australia on 417 or 462 Working Holiday Visas.

The action was brought by Taxback.com on behalf of a group of its clients, who are citizens of the UK, US and Germany.

If anyone has been affected by the Backpacker Tax or wishes to stay abreast of the developments of this case, please register at www.taxback.com

ENDS

Issued by Kite Communications on behalf of Taxback.com. Media inquiries to Nicholas Owens, Director, ph. +61 2 8920 0700, mob. + 61 421 977 062, or email nick@kitecommunications.com.au

About Taxback.com.

Taxback.com is an international tax accounting firm that provides tax refund and tax return services across 13 countries, including Australia.