

Letter to the Editor
Australian Financial Review

Dear Sir

Taxing Issue for Expatriate Voters

The comments by Mark Hansford (Letters 4 June) rely on a myth, oft repeated by ill-informed financial advisers, that has operated over the years to disenfranchise many overseas Australians in Federal elections and referenda.

The existence of a person's name on the electoral roll is NOT a critical test applied by the ATO in determining the residence status of taxpayers. This issue was specifically raised in several submissions to the Australian Parliament's Joint Standing Committee on Electoral Matters (JSCEM) in its inquiry into the conduct of the 2001 election held during 2002-2003. As a consequence, the JSCEM sought the comments of the ATO and received from it a lengthy response in March 2003 (Submission 194) which is published on the JSCEM's website at <http://www.aph.gov.au/house/committee/em/emrep.htm>.

While the tests for residency are quite complex, a careful reading of the ATO submission clearly establishes that whether or not a person is on the electoral roll has virtually no bearing on whether or not that person is a non-resident for Australian taxation purposes. Other tests are used to determine residency status.

Tax professionals beware: your expat clients will not thank you for giving them advice to take themselves off the electoral roll when they do not in fact need to do so to obtain non-resident tax status. Our organisation receives many e-mails from expats who've received such advice which has failed to point out at the same time to them the longer-term implications under the Commonwealth Electoral Act 1918 of removal: once off the electoral roll, an Australian citizen can only re-enrol from overseas within a two-year period of leaving Australia. Once this window has passed, an expat will be disenfranchised until returning to reside in Australia.

The loss of the right to vote, a fundamental right attached to citizenship, cannot be taken lightly in a country which calls itself a democracy. Those Australians who have experienced it and continue to experience it generally find it no trivial matter and many feel great bitterness. Voting is not compulsory while abroad and, understandably, some Australians may not want to vote while away. But many overseas Australians do still want to have a say in the future of their country, where they in many cases still pay taxes despite their absence, and to where they will return to live sooner or later.

The Southern Cross Group estimates that as many as 500,000 Australian citizens overseas aged 18 or over may be currently disenfranchised. That's the equivalent of five or six electorates. While ever the Australian Parliament sees fit to exclude half a million citizens from the franchise and impose a time limitation on re-enrolment from overseas, it is absolutely imperative that people don't take themselves off the electoral roll because they receive incomplete and misguided advice from tax professionals. The ATO has said as a matter of public record that Australians do not have to disenfranchise themselves for tax reasons.

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