

INCOME TAX AMENDMENT BILL (NO. 3)

EXPLANATORY NOTE

THIS Bill amends Part XA (National Superannuitant Surcharge) of the Income Tax Act 1976.

Clause 1 relates to the Short Title.

Clause 2 provides that income from a specified foreign social security pension (as defined in *subclause (11)*) is not to be included in "other income" for the purposes of the surcharge.

Clause 3 gives effect to changes in the amount of other income (now defined as the "specified exemption") that is exempt from the surcharge.

Subsection (1) inserts a new section 336BA in Part XA setting out details of the specified exemption.

Paragraph (a) provides that where the national superannuation received by a national superannuitant was at 60 percent of the married rate by reason of the national superannuitant not being married, the specified exemption is to be \$6,240 for a whole year and a proportion of that amount, based on the number of pay days (as defined in section 3 of the Social Security Act 1964) in respect of which it was received, when it was for less than a year.

Paragraph (b) provides that where the national superannuation received by a national superannuitant was at 50 percent of the married rate, the specified exemption is to be \$10,400 for a whole year, reduced by an amount equal to the other income of the spouse of the national superannuitant, but in no case is to be less than \$5,200 for the year.

Where the national superannuation is not received on this basis for a whole year, the specified exemption is to be a proportion of that amount, based on the number of pay days in respect of which it was received.

Paragraph (c) provides that where the national superannuation received by a national superannuitant was at 60 percent of the married rate by reason of the spouse of the national superannuitant not being entitled to national superannuation, the specified exemption is to be \$10,400 for a whole year, reduced by an amount equal to the income of the spouse (being the taxable income less the amount of any specified foreign social security pension). In no case is the specified exemption to be less than \$6,240 for the year.

Where the national superannuation is not received on this basis for the whole year, the specified exemption is to be a proportion of that amount, based on the number of pay days in respect of which it was received.

Paragraph (d) provides that where the national superannuitant did not receive national superannuation for any part of the income year for any reason other than—

(a) His national superannuation commencing after the beginning of the income year; or

(b) His death during the income year; or

(c) His permanent departure from New Zealand during the income year,—the specified exemption is to be the amount of specified exemption that he would have been entitled to under paragraph (a) or paragraph (b) or paragraph (c) of the subsection if he had received national superannuation during that part of the income year on the same basis as he received national superannuation for the last pay day (as defined in the Social Security Act 1964) preceding that part of the income year, or, where he did not receive any national superannuation before that part of the income year, for the first pay day (as so defined) after that part of the income year.

Where more than one paragraph applies in respect of different parts of the year, the specified exemption is to be the aggregate of the amounts calculated under each paragraph.

Subsection (2) provides that where it is not possible for the purposes of an assessment of income tax under section 12 (2) of the principal Act to determine the specified exemption of a national superannuitant by reason of the income of the spouse of the national superannuitant for the income year not being ascertainable, the Commissioner shall determine it to be such amount as he considers fair and equitable, having regard to the circumstances of the case and the tenor of subsection (1) of the section.

Clause 4 amends sections 336J, 336K, and 336L, to provide for a new surcharge code SAJ, and for the issue of special surcharge codes to cater for the varying amounts of the specified exemption on a pay period basis.

Clause 5 provides that where a national superannuitant has not delivered a tax code declaration or a special tax code certificate to his employer or the Department of Social Welfare by 1 April 1985 by reason of delay in ascertaining his surcharge code in respect of the 1985/86 income year, the tax code declaration or a special tax code certificate in force on 31 March 1985 is to continue in force until the earlier of—

(a) 31 May 1985; or

(b) The day on which the tax code declaration or special tax code certificate in respect of the 1985/86 income year is delivered to the employer or the Department of Social Welfare.

Hon. R. O. Douglas

INCOME TAX AMENDMENT (NO. 3)

ANALYSIS

Title	3. Determination of "specified exemption"
1. Short Title	4. New surcharge codes
2. Foreign social security pension	5. Transitional provision

A BILL INTITULED

An Act to amend the Income Tax Act 1976

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. **Short Title**—This Act may be cited as the Income Tax Amendment Act (No. 3) 1985, and shall be read together with and deemed part of the Income Tax Act 1976* (hereinafter referred to as the principal Act).

10 2. **Foreign social security pension**—(1) Section 336A of the principal Act (as inserted by section 17 (1) of the Income Tax Amendment Act 1984) is hereby amended by inserting, before the definition of the expression "specified income", the following definition:

15 "Specified foreign social security pension' means any benefit, pension, or periodical allowance granted elsewhere than in New Zealand to any person to the extent to which, pursuant to section 70 of the Social Security Act 1964 or to Article 15 of the Convention
20 set out in the Schedule to the Social Security (Reciprocity with the United Kingdom) Act 1983, the

amount of that benefit, pension, or periodical allowance reduces the rate of national superannuation payable to that person under Part I of the Social Security Act 1964:".

*R.S. Vol. 12, p. 1

1983, No. 4; 1983, No. 10; 1983, No. 139; 1984, No. 10

(2) Section 336B (1) of the principal Act (as inserted by section 5
17 (1) of the Income Tax Amendment Act 1984) is hereby
amended by omitting the formula "a-(b-c)", and substituting
the following formula:

"a-(b-c)-d".

(3) Section 336B (1) of the principal Act (as so inserted and 10
amended) is hereby further amended by repealing item c, and
substituting the following items:

"c is the standard deduction entitlement of the national
superannuitant in respect of the income year; and

"d is the amount of any specified foreign social security 15
pension or, as the case may be, the sum of the amounts
of every specified foreign social security pension received
by the national superannuitant in respect of the income
year."

(4) Section 336B (2) of the principal Act (as inserted by section 20
17 (1) of the Income Tax Amendment Act 1984) is hereby
amended by repealing item e, and substituting the following
item:

"e is an amount equal to such part of his taxable income,
not including any amount of national superannuation 25
and not including any amount of specified foreign social
security pension in respect of the income year as, in the
opinion of the Commissioner, relates to sources of
income from which he derived income (if any) during
only the period in respect of which national 30
superannuation was payable to him; and".

(5) Section 336B (2) of the principal Act (as so inserted and
amended) is hereby further amended by repealing item g, and
substituting the following item:

"g is an amount equal to such part of his taxable income, 35
not including any amount of national superannuation
and not including any amount of specified foreign social
security pension in respect of the income year as, in the
opinion of the Commissioner, relates to sources of
income from which he derived income (if any) during 40
only the period in respect of which national
superannuation was not payable to him; and".

(6) Section 336A of the principal Act (as inserted by section 17 (1) of the Income Tax Amendment Act 1984) is hereby consequentially amended by omitting from item c of the definition of the expression “net national superannuation” the words “the taxable income of the national superannuitant (other than national superannuation) as if the national superannuitant had not received any national superannuation in the income year”, and substituting the words “an amount equal to the sum of the amount of the other income in relation to the national superannuitant in relation to the income year (as determined in accordance with section 336B (1) of this Act) and the amount of any specified foreign social security pension or, as the case may be, the sum of the amount of every specified foreign social security pension received by him in respect of the income year”.

3. Determination of “specified exemption”—(1) The principal Act is hereby amended by inserting, after section 336B (as inserted by section 17 (1) of the Income Tax Amendment Act 1984), the following section:

“336BA. (1) Subject to **subsection (2)** of this section, for the purposes of this Part of this Act the expression ‘specified exemption’, in relation to a national superannuitant and to any income year, means such one of the following amounts of exemption as is, or, as the case may be, an amount equal to the sum of 2 or more of the following amounts of exemption as are, applicable in the case of the national superannuitant:

“(a) Where in respect of any period in the income year (whether that period is a part or the whole of the income year) the national superannuation received by the national superannuitant was at 60 percent of the married rate of national superannuation by reason of the national superannuitant not being married, an amount of exemption calculated in accordance with the following formula:

$$6,240 \times \frac{a}{b}$$

where—

a is the number of pay days (as defined in section 3 of the Social Security Act 1964) in respect of which that national superannuation was payable to him in respect of the income year; and
 b is the number of pay days (as so defined) in the income year:

“(b) Where in respect of any period in the income year (whether that period is a part or the whole of the income year) the national superannuation received by a national superannuitant was at 50 percent of the married rate of national superannuation, an amount of exemption calculated in accordance with the following formula: 5

$$\frac{c \times d}{e}$$

where— 10

c is the amount remaining after deducting from \$10,400 an amount equal to the other income, in relation to the income year, of the spouse of the national superannuitant; and

d is the number of pay days (as so defined) in 15 respect of which that national superannuation was payable to him in respect of the income year; and

e is the number of pay days (as so defined) in the income year:

“Provided that in no case shall item c be an 20 amount less than \$5,200:

“(c) Where in respect of any period in the income year (whether that period is a part or the whole of the income year) the national superannuation received by the national superannuitant was at 60 percent of the married rate by reason of the spouse of the national superannuitant not being entitled to receive national superannuation, an amount of exemption calculated in accordance with the following formula: 25

$$\frac{f \times g}{h} \quad 30$$

where—

f is the amount remaining after deducting from \$10,400 an amount equal to the taxable income, for the income year, of the spouse of the national superannuitant, reduced by the amount of any specified foreign social security pension or, as the case may be, the sum of the amounts of every specified foreign social security pension received by the said spouse in respect of the income year; 35 and 40

g is the number of pay days (as so defined) in respect of which that national superannuation was payable to him in respect of the income year; and h is the number of pay days (as so defined) in the income year:

5

“Provided that in no case shall item f be an amount less than \$6,240:

“(d) Where in respect of any period in the income year national superannuation is not received by the national superannuitant for any reason other than—

10

“(i) His national superannuation commencing after the beginning of the income year; or

“(ii) His death during the income year; or

15

“(iii) His permanent departure from New Zealand during the income year,—

an amount of exemption calculated as follows:

20

“(iv) In the case of a national superannuitant who, in respect of the income year, received national superannuation before the commencement of that period, the amount of exemption that would have been determined under **paragraph (a), paragraph (b), or paragraph (c)**, as the case may be, of this subsection in respect of that period if he had received national superannuation in respect of that period on the basis of the same circumstances as those on the basis of which he received it on the last pay day (as so defined) on which, before the commencement of that period, he received a payment of national superannuation; and

25

30

“(v) In all other cases, the amount of exemption that would have been determined under **paragraph (a), paragraph (b), or paragraph (c)**, as the case may be, of this subsection in respect of that period if he had received national superannuation in respect of that period on the basis of the same circumstances as those on the basis of which he received it on the first pay day (as so defined) on which, after the end of the period, he received a payment of national superannuation.

35

40

“(2) For the purposes of **subsection (1)** of this section, in any case where, in relation to a national superannuitant and to any income year, an amount calculated in accordance with, as the case may be, **item c** in **paragraph (b)**, **item f** in **paragraph (c)**, or

paragraph (d) of that subsection cannot be determined, for the purpose of an assessment, pursuant to section 12 (2) of this Act, of income tax payable by the national superannuitant, by reason of the income of the spouse of the national superannuitant for the income year not being ascertainable at the time of the making of that assessment, an amount in substitution of the said amount shall be determined by the Commissioner in such manner as he considers fair and equitable having regard to the circumstances of the case and to the tenor of the said **subsection (1)**.” 5 10

(2) Section 336A of the principal Act (as inserted by section 17 (1) of the Income Tax Amendment Act 1984) is hereby consequentially amended by inserting, in its appropriate alphabetical order, the following definition:

“‘Specified exemption’, in relation to a national superannuitant and to any income year, has the meaning specified in **section 336BA** of this Act.” 15

(3) Section 336D of the principal Act (as inserted by section 17 (1) of the Income Tax Amendment Act 1984) is hereby consequentially amended— 20

(a) By omitting from subsection (1) the expression “\$5,200”, and substituting the expression “his specified exemption”:

(b) By repealing subsection (2):

(c) By omitting from subsection (3) the expression “or subsection (2)”. 25

(4) Section 336I (2) of the principal Act (as inserted by section 17 (1) of the Income Tax Amendment Act 1984) is hereby consequentially amended by omitting the expression “\$5,200”, and substituting the expression “his specified exemption”. 30

(5) Section 336K (2) of the principal Act (as inserted by section 17 (1) of the Income Tax Amendment Act 1984) is hereby consequentially amended by omitting from paragraph (a) the expression “\$5,200”, and substituting the expression “the national superannuitant’s specified exemption”. 35

4. New surcharge codes—(1) Section 336J (2) (a) of the principal Act (as inserted by section 17 (1) of the Income Tax Amendment Act 1984) is hereby amended by repealing subparagraphs (i) and (ii), and substituting the following subparagraphs: 40

“(i) Where the surcharge code is ‘SAJ’, 25 cents in each complete dollar of that part of that source deduction payment as exceeds an amount calculated in accordance with **section 336L (1A)** of this Act:

“(ii) Where the surcharge code is ‘MAJ’, 25 cents in each complete dollar of that part of that source deduction payment as exceeds an amount calculated in accordance with section 336L (2) of this Act:

5 “(iii) Where the surcharge code is ‘MIN’, 25 cents in each complete dollar of the amount of that source deduction payment:

“(iv) Where a special surcharge code has been supplied, an amount equal to the rate specified therein in each complete dollar of the amount of that source deduction payment; and”.

10 (2) Section 336K (3) (b) of the principal Act (as inserted by section 17 (1) of the Income Tax Amendment Act 1984) is hereby amended by repealing subparagraph (i), and substituting
15 the following subparagraphs:

“(i) Where national superannuation is to be paid to the national superannuitant at 60 percent of the married rate, the surcharge code ‘SAJ’ shall be used in respect of the largest such source deduction payment and the surcharge code ‘MIN’ shall be used in respect of all other such source deduction payments; and

20 “(ia) Where national superannuation is to be paid to the national superannuitant at 50 percent of the married rate, the surcharge code ‘MAJ’ shall be used in respect of the largest such source deduction payment and the surcharge code ‘MIN’ shall be used in respect of all other such source deduction payments; and

25 “(ib) Notwithstanding anything in **subparagraphs (i) and (ia)** of this paragraph, a special surcharge code may be used in respect of any such source deduction payment; and”.

30 (3) Section 336L of the principal Act (as inserted by section 17 (1) of the Income Tax Amendment Act 1984) is hereby
35 amended by repealing paragraphs (a) and (b) of subsection (1), and substituting the following paragraphs:

“(a) ‘SAJ’, signifying a national superannuitant who is to be paid national superannuation at 60 percent of the married rate and who has no other source deduction payment exceeding in amount that source deduction
40 payment:

- “(b) ‘MAJ’, signifying a national superannuitant who is to be paid national superannuation at 50 percent of the married rate and who has no other source deduction payment exceeding in amount that source deduction payment: 5
- “(c) ‘MIN’, signifying a national superannuitant who has another source deduction payment to which the surcharge code ‘MAJ’ or ‘SAJ’ applies:
- “(d) Notwithstanding anything in paragraphs (a), (b), and (c) of this subsection, a special surcharge code may be used in respect of any such source deduction payment.” 10

(4) Section 336L of the principal Act (as so inserted and amended) is hereby further amended by inserting, after subsection (1), the following subsection: 15

“(1A) In calculating the surcharge deduction to be made from any source deduction payment (other than national superannuation) made to a national superannuitant, where that national superannuitant has specified that his surcharge code is ‘SAJ’ in respect of that source deduction payment, the amount of that source deduction payment shall, for the purpose of calculating the surcharge deduction, be reduced by an amount equal to, where the pay period for that source deduction payment is a period of— 20

- “(a) One day, the amount of \$24: 25
- “(b) One week, the amount of \$120:
- “(c) Two weeks, the amount of \$240:
- “(d) Three weeks, the amount of \$360:
- “(e) Four weeks, the amount of \$480:
- “(f) One month, the amount of \$520.” 30

(5) Section 336L of the principal Act (as so inserted and amended) is hereby further amended by repealing paragraph (a) of subsection (2), and substituting the following paragraphs:

- “(a) One day, the amount of \$20:
- “(aa) One week, the amount of \$100:” 35

(6) Section 336A of the principal Act (as inserted by section 17 (1) of the Income Tax Amendment Act 1984) is hereby consequentially amended by inserting, in its appropriate alphabetical order, the following definition:

“‘Special surcharge code’, in relation to a national superannuitant, means a special surcharge code supplied by the Commissioner in the same manner, with any necessary modifications, as a special tax code certificate supplied by him pursuant to section 351 of this Act.” 40 45

- 5. Transitional provision**—Notwithstanding anything in the principal Act, for the purposes of Parts XA and XI of that Act, where a national superannuitant (being a national superannuitant as defined in section 336A of that Act) has not
- 5 delivered to his employer, by the 1st day of April 1985, a tax code declaration in the form authorised by the Commissioner and containing such particulars as the Commissioner requires or a special tax code certificate by reason of, in the opinion
- 10 of the Commissioner, delay in ascertaining his surcharge code in respect of the surcharge deductions required to be made in the income year commencing on the 1st day of April 1985, the tax code declaration or, as the case may be, the special tax code certificate in force on the 31st day of March 1985 shall continue in force until the earlier of—
- 15 (a) The 31st day of May 1985; or
(b) The day on which the first-mentioned tax code declaration or, as the case may be, the special tax code certificate is so delivered to his employer.