

TAXATION (SUPERANNUITANT SURCHARGE ABOLITION) BILL

EXPLANATORY NOTE

GENERAL POLICY STATEMENT

Introduction

THIS Bill gives effect to a key initiative of the Coalition Government's senior citizens policy, the abolition of the New Zealand superannuitant surcharge.

Details of Policy

The Bill repeals the sections of the Income Tax Act 1994 and the Tax Administration Act 1994 that provide for the imposition and collection of the surcharge.

The Bill also introduces a transitional provision removing the effect of the superannuitant surcharge on calculations of provisional tax for the 1998-99 and/or 1999-2000 income years. A taxpayer is able to calculate provisional tax for an income year based on the taxpayer's residual income tax (RIT) in an earlier year. For years before the abolition of the surcharge, a taxpayer's RIT is the amount remaining after making certain deductions from the total amount of income tax and New Zealand superannuitant surcharge payable. Under the transitional provision, the RIT used to calculate provisional tax for the 1998-99 and/or the 1999-2000 income years is reduced by its superannuitant surcharge component so that effectively superannuitants provisional tax payments will not include the surcharge component.

These amendments apply for the 1998-99 and subsequent income years.

Clause by clause analysis

PART I

AMENDMENTS TO INCOME TAX ACT 1994

This Part amends the Income Tax Act 1994.

Clause 3 repeals paragraph (b) of *section DB 1 (2)*. That provision includes the New Zealand superannuitant surcharge in a list of items for which no deduction is allowed.

Clause 4 repeals *Subpart JB*. That Subpart imposes the New Zealand superannuitant surcharge.

Clause 5 inserts a new *section MB 2B*. For the purposes of calculating provisional tax, a New Zealand superannuitant's residual income tax for the 1997–98 income year and for an earlier income year is adjusted to remove the effect of the New Zealand superannuitant surcharge.

Clause 6 amends *section NC 14 (2A)*. It removes the requirement that the Commissioner of Inland Revenue take the superannuitant surcharge into account when issuing special tax code certificates.

Clause 7 repeals *Subpart NI*. That Subpart provides for the collection of the New Zealand superannuitant surcharge by deducting it from New Zealand superannuation or source deduction payments.

Clause 8 repeals redundant definitions in *section OB 1*. It also amends definitions that refer to those redundant definitions.

Clause 9 amends *section OB 6 (2)* by removing a reference to the surcharge.

Clause 10 repeals *subsections (2)(h) and (3)(s) of section OZ 1*. Both provisions refer to the New Zealand superannuitant surcharge.

PART II

AMENDMENTS TO TAX ADMINISTRATION ACT 1994

This Part amends the Tax Administration Act 1994.

Clause 12 repeals the definition of “other income” in *section 3 (1)*. That definition is now redundant.

Clause 13 repeals *sections 33A (1)(a) and (2)*, which specify the situations in which a New Zealand superannuitant is not required to file an annual income tax return. That subsection is based on the threshold for liability to pay the surcharge. It also consequentially amends *sections 33A (3) and (4)*.

Clause 14 repeals *section 45*. That section requires a taxpayer who is paying the surcharge by deductions to provide the Commissioner with details of other income.

Clause 15 repeals *section 96*. That section authorises the Commissioner to assess the surcharge and allows a taxpayer to challenge an assessment.

Clause 16 inserts a new *section 119A* to require the Commissioner, when assessing a taxpayer's residual income tax for the 1997–98 income year, to adjust the assessment so as to remove the effect of the New Zealand superannuitant surcharge.

3. Certain deductions not allowed—Section DB 1 (2)(b) is repealed.

4. Subpart JB repealed—Subpart JB (New Zealand Superannuitant Surcharge) is repealed.

5. Amount of provisional tax based on 1997–98 or earlier income year—After section MB 2A, the following is inserted:

“MB 2B. For the purposes of section MB 2 other than section MB 2 (3) and for a taxpayer who is a New Zealand superannuitant for the 1997–98 income year, the taxpayer’s residual income tax for that income year or for an earlier income year is the amount that would have been the taxpayer’s residual income tax if the taxpayer:

“(a) Had not been liable to pay the New Zealand superannuitant surcharge; and

“(b) Had not paid any New Zealand superannuitant surcharge by way of surcharge deduction.”.

6. Special tax code certificates—Section NC 14 (2A) is replaced by:

“(2A) The Commissioner shall calculate, for the source deduction payments and the period specified in the certificate, the amount or rate of tax deductions to be specified in the certificate having regard to the amount of any tax deduction that would otherwise be required under section NC 6.”.

7. Subpart NI repealed—Subpart NI (New Zealand Superannuitant Surcharge) is repealed.

8. Definitions—In section OB 1:

(a) The definition of “net New Zealand superannuation” is repealed:

(b) The definition of “New Zealand superannuitant surcharge” is repealed:

(c) The definition of “other income” is repealed:

(d) In the definition of “residual income tax”, paragraph (h) is repealed:

(e) The definition of “source deduction payment” is replaced by:

“‘Source deduction payment’ has the meaning given by section OB 2 (1):”

(f) The definition of “special surcharge code” is repealed:

(g) The definition of “specified exemption” is repealed:

5 (h) The definition of “specified income” is replaced by:

10 “‘Specified income’ in Part KD, in relation to a person and to any specified period referred to in section KD 1 (4), means the amount calculated in accordance with the formula in section KD 1 (4):”

(i) The definition of “surcharge” is repealed:

(j) The definition of “surcharge code” is repealed:

(k) The definition of “surcharge deduction” is repealed.

15 **9. Meaning of “income tax”**—Section OB 6 (2) is replaced by:

20 “(2) Notwithstanding anything in subsection (1), the term ‘income tax’ does not include the taxes specified in section OZ 1 (3)(p) to (u) when the term is used in the provisions listed in section OZ 1 (3)(a) to (o).”

10. References to particular regimes in former Act, etc.—(1) Section OZ 1 (2)(h) is repealed.

(2) Section OZ 1 (3)(s) is repealed.

PART II

25 AMENDMENTS TO TAX ADMINISTRATION ACT 1994

11. Tax Administration Act 1994—The Tax Administration Act 1994 is amended by this Part.

12. Interpretation—In section 3 (1), the definition of “other income” is repealed.

30 **13. Annual income tax returns not required from taxpayers**—(1) Section 33A (1)(a) is repealed.

(2) Section 33A (2) is repealed.

(3) In section 33A (3), “subsections (1) and (2)” is replaced by “subsection (1)”.

35 (4) In section 33A (4), “subsections (1) and (2)” is replaced by “subsection (1)”.

14. New Zealand superannuitant to estimate other income—Section 45 is repealed.

15. Assessment of New Zealand superannuitant surcharge—Section 96 is repealed.

16. Amount of provisional tax based on 1997–98 or earlier income year—After section 119, the following is inserted:

“119A. For the purposes of section 119 (3) and for a taxpayer who is a New Zealand superannuitant, the taxpayer’s residual income tax for the 1997–98 income year or for an earlier income year is the amount that would have been the taxpayer’s residual income tax if the taxpayer:

“(a) Had not been liable to pay the New Zealand superannuitant surcharge; and

“(b) Had not paid any New Zealand superannuitant surcharge by way of surcharge deduction.”.