

HOUSE OF REPRESENTATIVES

# Supplementary Order Paper

Tuesday, 29 April 1986

INCOME TAX AMENDMENT (NO. 7)

*Proposed Amendments*

Hon. R. O. DOUGLAS, in Committee, to move the following amendments:

*Clause 17: New section 374B:* To omit lines 17 to 32 on page 24 and substitute the following lines:

accounting year of the company), the person is, or would be if that day was the last day of any quarter (as defined in section 336N (1) of this Act), in relation to that company, a major shareholder (within the meaning of the definition of the expression 'major shareholder' in section 336N (1) of this Act), there shall be included,—

“(i) For the purposes of this Act, other than section 374C, an amount equal to the amount (if any) by which the amount of any dividend or, as the case may be, the aggregate of the amounts of all dividends paid by the company to the person in the income year is less than an amount equal to so much of the assessable income derived by the company in the income year to which, under and for the purposes of this Act, the accounting year of the company corresponds, as bears to that amount the same proportion as the total of the issued shares of the company (other than shares which bear a fixed rate of dividend only) so held by the person bears to the total of the issued shares of the company (other than shares which bear a fixed rate of dividend only) on the last day of the said accounting year of the company:

“(ii) For the purposes of section 374C of this Act, an amount equal to the amount (if any) by which the amount of any dividend or, as the case may be, the aggregate of the amounts of all dividends paid by the company to the person in the income year is less than the amount calculated in accordance with the following formula:

$$\frac{a}{b} \times (c-d)$$

where—

- a is the number of issued shares of the company (other than shares which bear a fixed rate of dividend only) held by the person on the said last day of the said accounting year of the company; and
- b is the number of issued shares of the company (other than shares which bear a fixed rate of dividend only) on the said last day of the said accounting year of the company; and
- c is the amount of the assessable income derived by the company in the income year to which, under and for the purposes of this Act, the accounting year of the company corresponds; and
- d is the amount of the income tax payable by the company in the income year to which, under and for the purposes of this Act, the accounting year of the company corresponds.

*New section 374E:* To insert, after line 43 on page 32, the following definition:

“‘Employment’ means the activity or the activities the performing of which by any person gives rise, or will give rise, to entitlement by the person to the receipt of a source deduction payment (not being—

“(a) A payment of any of the kinds referred to in paragraphs (ba) and (c) of the definition of the expression ‘salary or wages’ in section 2 of this Act:

“(b) A withholding payment of the kind specified in Part E of the Income Tax (Withholding Payments) Regulations 1979:

“(c) A payment made by any private company (as defined in section 2 of the Companies Act 1955) to any person who, in relation to that private company, is a major shareholder (within the meaning of the definition of the expression ‘major shareholder’ in section 336N (1) of this Act):

“(d) A payment made by any person to the spouse of that person:

“(e) A payment made by any business carried on by 2 or more persons jointly, whether in partnership or otherwise, to any other person who, in relation to any of those first-mentioned persons, is a spouse);—

and, for the purposes of this definition, where, in relation to any day, any person receives a source deduction payment, and does not perform in that day any activity or activities giving rise to the source deduction payment or performs in that day an activity or activities to an extent that is less than the extent of the activity or activities that, had it or they been performed by the person in that day, would have given rise to the source deduction payment, the

person shall be deemed to have performed in that day such activity or activities (if any) or, as the case may be, an activity or activities to such extent, (if any) greater than that first-mentioned extent, as the Commissioner determines, having regard to the said day and to the pay period in which it occurs and to the circumstances giving rise to the source deduction payment and to any other circumstances that the Commissioner considers relevant.

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#### EXPLANATORY NOTE

*Clause 17: New section 374B:* At present the section provides that a person employed by a private company in which he holds 10 percent or more of the issued shares is required to bring into account, for the purpose of ascertaining his assessable income in relation to guaranteed minimum family income scheme, the appropriate proportion of the pre-tax income of the company. This amendment provides that the appropriate proportion of the after-tax income is to be brought into account.

*Clause 17: New section 374E:* This amendment clarifies the full-time employment criteria for the purposes of family support to exclude—

- (a) Employment of a major shareholder by a private company;
- (b) Employment of a spouse by a self-employed person.