

Supplementary Order Paper

HOUSE OF REPRESENTATIVES

Tuesday, the 8th Day of September 1970

PAYROLL TAX BILL

Proposed Amendments

Hon. Mr MULDOON, in Committee, to move the following amendments:

Title: To omit the words "the paid or payable wages" in line 3, and substitute the words "wages paid or payable".

Clause 2, subclause (1): To omit the definition of the term "employer", and substitute the following definition:

"Employer" means any person who pays or is liable to pay any chargeable wages, whether on his own account, or as an agent, or as a trustee, or as the Official Assignee in bankruptcy of the property of a bankrupt, or as the liquidator or receiver of a company that is in liquidation or receivership; and includes the executor or administrator of a deceased employer; and also includes the Crown:

To omit the definition of the expression "field agent", and substitute the following definition:

"Field agent" means—

- (a) Any person who is engaged (otherwise than as an employee) in—
 - (i) Procuring proposals for or arranging contracts of insurance of any kind, or collecting premiums in respect of such contracts; or
 - (ii) Procuring contracts for, or otherwise arranging, the establishment or maintenance of any superannuation fund (including contracts or arrangements relating to the provision of benefits under that fund, or to insurance upon the lives of members of that fund, or to the investment or management of the assets of that fund), or recruiting contributors to any superannuation fund; or

- (iii) Procuring or arranging contracts or undertakings to subscribe for shares in any building society within the meaning of the Building Societies Act 1965;—

but does not include—

- (b) Any independent broker; or
 (c) Any company to which section 149 or section 151 of the Land and Income Tax Act 1954 applies; or
 (d) The Government Life Insurance Office or the State Insurance Office; or
 (e) Any person who is engaged in any business which includes activities of any of the kinds referred to in paragraph (a) of this definition, where those activities customarily form an insignificant part of that business:

To insert, after the definition of the expression “income tax”, the following definition:

“‘Independent broker’ means a person who—

“(a) Carries on, wholly or principally through any other person (being a person who is employed or engaged by that first-mentioned person and, where that first-mentioned person is a private company within the meaning of the Companies Act 1955, is not a shareholder of that company), the business of—

“(i) Procuring proposals for or arranging contracts of insurance of any kind; or

“(ii) Procuring contracts for, or otherwise arranging, the establishment or maintenance of any superannuation fund (including contracts or arrangements relating to the provision of benefits under that fund, or to insurance upon the lives of members of that fund, or to the investment or management of the assets of that fund) or recruiting contributors to any superannuation fund; or

“(iii) Procuring or arranging contracts or undertakings to subscribe for shares in any building society within the meaning of the Building Societies Act 1965; and

“(b) Is not required by any contract, agreement, or arrangement to place business entrusted to him solely with 1 person or with any group of 2 or more companies which are associated persons within the meaning of section 3A of the Land and Income Tax Act 1954:

Clause 3, subclause (1): To omit from paragraph (b) the words "Any amount paid or payable (whether in cash or otherwise) for work done or services rendered" in lines 36 and 37, and substitute the words "An amount equal to 90 percent of any amount paid or payable (whether in cash or otherwise) to any person (otherwise than as an employee) for work done or services rendered (whether or not that work or those services are required to be, or are, done or rendered personally by that person)".

To omit from paragraph (e) the words "Any commissions, retainers, or other amounts" in line 11 on page 7, and substitute the words "An amount equal to 80 percent of the aggregate amount of all commissions, retainers, and other amounts".

To insert in paragraph (f), after the words "paid or payable" in line 16 on page 7, the words "(not being an allowance paid or payable to a person referred to in paragraph (b) of this subsection or to a field agent)".

To add to paragraph (h) the word "or" and to insert, after that paragraph, the following paragraph:

- (i) Any amount which is paid or payable by a person (that person being a person to whom any amount is paid or payable for work or services referred to in paragraph (b) of this subsection, and that work or those services being hereafter in this paragraph referred to as the specified work or services) to another person in respect of the services of that other person in doing or rendering, in whole or in part, the specified work or services:

To omit the first proviso to this subclause.

To omit from the second proviso to this subclause the word "also" in line 43 on page 7.

Clause 7, subclause (1): To omit from paragraph (e) the words "to any employee" in line 34.

To insert, after paragraph (i), the following paragraph:

- (ii) Wages paid by any person to the extent that the wages are attributable to the drafting of stock for immediate delivery to an export slaughterhouse within the meaning of the Meat Act 1964:
 Provided that nothing in this paragraph shall be construed as applying to wages paid to any person in respect of the transport of stock, or in respect of the loading or unloading of stock on or from any ship, barge, lighter, or other vessel, or any railway van or truck, or any aircraft, or any vehicle, or in respect of the receiving or delivery of stock, or in respect of any other handling of stock in connection with its transport, receipt, or delivery:

To omit paragraph (j), and substitute the following paragraph:

(j) Wages paid by—

(i) A co-operative dairy company that is registered as such under the Co-operative Dairy Companies Act 1949, and attributable to and incurred in any of the activities referred to in subsection (4) of section 146 of the Land and Income Tax Act 1954;

or
(ii) A co-operative milk marketing company within the meaning of section 146A of the Land and Income Tax Act 1954, and attributable to and incurred in any of the activities referred to in subsection (2) of that section; or

(iii) A co-operative pig marketing company within the meaning of section 146B of the Land and Income Tax Act 1954, and attributable to and incurred in any of the activities referred to in subsection (2) of that section:

To omit paragraph (l), and substitute the following paragraph:

(l) Wages paid by any person to the extent that the wages are attributable to—

(i) The scouring of wool; or

(ii) The buying, selling, or exporting of raw wool or scoured wool (including the storing and preparing of raw wool or scoured wool for sale or export as raw wool or scoured wool, as the case may be):

Provided that nothing in this paragraph shall be construed as applying to wages paid to any person in respect of the transport of wool, or in respect of the loading or unloading of wool on or from any ship, barge, lighter, or other vessel, or any railway van or truck, or any aircraft, or any vehicle, or in respect of the receiving or delivery of wool, or in respect of any other handling of wool in connection with its transport, receipt, or delivery:

To omit from paragraph (m) the words “to an employee in respect of work done or services performed,” in lines 7 and 8 on page 14, and substitute the words “in respect of work done or services performed by any person,”.

To insert, after paragraph (m), the following paragraph:

(mm) Wages paid by any person to the extent that the wages are attributable to and incurred in the carrying on of the business of rock-oyster farming or mussel farming:

Clause 7, subclause (5): To omit the words “local authority or” in lines 22 and 23 on page 15.

Clause 11, subclause (1): To omit the definition of the term "exporter", and substitute the following definition:

"Exporter" means an employer, not being—

(a) A person specified in paragraph (f) or paragraph (g) or paragraph (k) of subsection (1) of section 7 of this Act; or

(b) A co-operative dairy company that is registered as such under the Co-operative Dairy Companies Act 1949; or

(c) A co-operative milk marketing company within the meaning of section 146A of the Land and Income Tax Act 1954; or

(d) A co-operative pig marketing company within the meaning of section 146B of the Land and Income Tax Act 1954:

To omit paragraph (a) of the definition of the expression "qualifying goods", and substitute the following paragraph:

(a) Animals and animal products and animal by-products, including dairy produce, meat, meat products and their respective by-products, but not including raw wool or scoured wool; and

Subclause (2): To omit paragraph (i) of item b, and substitute the following paragraph:

(i) The sale or other disposal of all goods (other than export goods) that have been sold or otherwise disposed of by him in that year; and

Clause 39: To omit paragraph (e), and substitute the following paragraph:

"(e) He shall be personally liable for the payroll tax payable in respect of the chargeable wages in respect of which he is an agent if, after the Commissioner has required him to make a return, or while any such payroll tax remains unpaid, he disposes of or parts with any fund or money which is in his hands or comes to him, being a fund or money from or out of which payroll tax could legally be paid, but he shall not otherwise be so personally liable."

Clause 45: To insert, after the words "payroll tax" in line 12, the words "or further payroll tax".

Clause 49, subclause (1): To insert in the proviso to paragraph (a), after the word "July" in line 30, the figures "1970".

Clause 50: To insert, after subclause (6), the following subclause:

(6A) The hearing by the Committee of any application under this section shall not be open to the public,

To insert, after subclause (11), the following subclause:

(11A) Every person (other than a member of the Committee) engaged or employed in connection with the work of the Committee who is not also an officer of the Inland Revenue Department established by the Inland Revenue Department Act 1952 shall, for the purposes of section 12 of that Act, be deemed to be an officer of that Department, and shall take and subscribe the oath of fidelity and secrecy referred to in that section, and that section shall in every respect apply to that person as if he were an officer of that Department.

First Schedule: To omit the words "A District Milk Board" and also the words "A Metropolitan Milk Board".

Third Schedule: To insert, in their appropriate numerical order, the following clauses:

- 18A. The Canteen Fund Board.
- 20A. The Electricity Distribution Commission.
- 20B. The Fire Service Council.
- 21A. The Local Government Commission.
- 21B. The Lottery Board of Control.
- 23A. The Motor Spirits Licensing Authority.
- 30A. The New Zealand Patriotic Fund Board.
- 40A. The Volunteer Service Abroad (Incorporated).

EXPLANATORY NOTE

Title: This is a drafting amendment only. It corrects a typographical error that was overlooked when the Bill was being printed.

Clause 2, subclause (1): The new definition of "employer" includes in that term a person who pays or is liable to pay chargeable wages as the Official Assignee in bankruptcy of the property of a bankrupt, or as the liquidator or receiver of a company that is in liquidation or receivership.

The new definition of "field agent" is to the same general effect as the existing definition, the main changes being that insurance companies receiving commissions are now expressly excluded, and the expression "independent insurance broker" (who is excluded by the existing definition) is replaced by the expression "independent broker", which is now separately defined in a new and wider definition.

Clause 3, subclause (1): The effect of the amendments to this subclause is as follows:

- (a) Only 90 percent of payments made under labour-only contracts for carpentry work in the building trade will be liable for payroll tax:
- (b) Such payments will be liable for payroll tax where they are made to a person for work done under such a contract, whether or not the work is done by him personally:
- (c) Only 80 percent of commissions and other amounts paid to a field agent will be liable for payroll tax:
- (d) The amendment to *paragraph (f)* is consequential on the amendments made to *paragraphs (b) and (e)*:
- (e) The new *paragraph (i)* is intended to ensure that where a payment is made to a person under a labour-only contract who does not personally do the work (such a payment being liable for payroll tax), any payment made by him to a person who actually does the work will not also be liable:
- (f) The omission of the first proviso is consequential on the amendments referred to in paragraphs (a) and (b) of this note:
- (g) The amendment to the second proviso is a consequential drafting amendment.

Clause 7, subclause (1): The effect of the amendment to *paragraph (e)* is that the exemption in respect of wages paid for work done or services rendered on land used for any farming or agricultural business will not be restricted to cases where the employer-employee relationship exists in the strict sense.

Paragraph (ii) is a new exemption. It exempts from payroll tax wages that are attributable to and incurred in the drafting of stock for immediate delivery to an export slaughterhouse. It does not apply to wages paid in respect of the transport or loading or unloading of stock.

The substituted *paragraph (j)* is to the same effect as the paragraph (j) in the Bill, the only changes being provisions defining "co-operative dairy company", "co-operative milk marketing company", and "co-operative pig marketing company" for the purposes of the paragraph.

The substituted *paragraph (l)*, so far as it applies to wages paid in connection with the buying, selling, and exporting of wool, is restricted to raw wool and scoured wool, and there is excluded from the exemption in respect of such wages any wages paid in respect of the transport or loading or unloading of wool.

The effect of the amendment to *paragraph (m)* is that the exemption in respect of wages paid for work done or services rendered by any person as a member of the crew of a fishing boat will not be restricted to cases where the employer-employee relationship exists in the strict sense.

Paragraph (mm) is a new exemption. It exempts from payroll tax wages paid in carrying on the business of rock oyster farming or mussel farming.

Clause 7, subclause (5): This is a minor drafting amendment only. The words "local authority" are unnecessary, as local authorities are included in the expression "public body" appearing in the subclause.

Clause 11: The substituted definition of "exporter" excludes a person owning and operating a cool store for export dairy produce, a co-operative dairy company, a co-operative milk marketing company, and a co-operative pig marketing company.

The definition of "qualifying goods" for the purposes of the rebate of payroll tax on wages attributable to certain exports is amended, so far as it applies to primary products, by excluding raw wool and scoured wool.

The formula for calculating the amount of that rebate is amended. In calculating that amount, the consideration received for export goods (as defined in *clause 8* of the Bill) is excluded, and the exporter will get the full benefit of the rebate relating to the "qualifying goods".

Clause 39: The new *paragraph (e)* provides that an agent will not be personally liable for the payroll tax payable in respect of the chargeable wages in respect of which he is an agent unless, after the Commissioner has required him to make a return, or while any such payroll tax remains unpaid, he disposes of or parts with any fund or money from or out of which payroll tax could legally be paid.

Clause 45: This is a drafting amendment only to ensure that the liability of an agent for payroll tax includes a liability for further payroll tax where an insufficient amount was paid in the first instance.

Clause 49, subclause (1): This amendment remedies an inadvertent omission from the proviso to *paragraph (a)*.

Clause 50: The new subclause (6A) provides that hearings before the Transitional Committee are not to be open to the public.

The new subclause (11A) provides that persons (other than members of the Committee) who are engaged or employed in connection with the work of the Committee but are not officers of the Inland Revenue Department must take and subscribe the oath of fidelity and secrecy that officers of the Department are required to take under section 12 of the Inland Revenue Department Act 1952.

First Schedule: This is a formal drafting amendment only. District Milk Boards and Metropolitan Milk Boards have been abolished and their functions are now exercised by the New Zealand Milk Board, which is itself exempt from payroll tax under clause 10 of the Third Schedule.

Third Schedule: The effect of adding the names of these bodies to the Third Schedule is to exempt them from payroll tax in respect of all wages paid by them.
