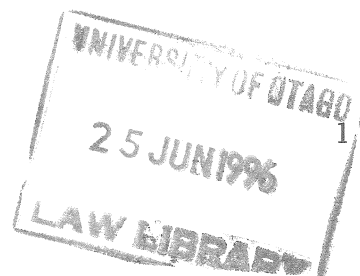


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HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Tuesday, 18 June 1996

TAXATION (REMEDIAL PROVISIONS) BILL

Proposed Amendments

Hon. PETER DUNNE, in Committee, to move the following amendments:

Clause 2A: To insert (after line 10 on page 2) the following new clause:

2A. Meaning of the term "dividends"—(1) In section CF 2 (2), "Subsection (1)" is replaced with "subsections (1) and (3)".

(2) Section CF 2 (3) is replaced by:

"(3) In this Act, the term 'dividends', in relation to a group investment fund, includes any payment from or transaction by the group investment fund to or with another person having regard to that person's (or any other person's) capacity as an investor in the fund where—

"(a) The fund is not a designated group investment fund; and

"(b) The investor's interest in the fund (referred to in this subsection and subsection (3A) as a 'deemed share') in respect of which the payment or the transaction is made does not result from—

"(i) An investment from a designated source (as defined in section HE 2 (3)); or

"(ii) An investment made in the fund on or before 22 June 1983, including any amount deemed to be invested at that date under paragraph (c) or (d) of the definition of 'protected amount' in section HE 2 (3); and

"(c) The payment or transaction would be dividends under this Act if the fund were a company, the interests of investors that are deemed shares were the only shares and the investors holding deemed shares were the only shareholders.

"(3A) In the case of a payment to or transaction with an investor in a group investment fund that is dividends under subsection (3),—

“(a) The provisions of this Act that have specific application with respect to dividends, companies, shares or shareholders; and

“(b) Section HH 3 (5),—

apply as if the fund were a company, the interests of investors that are deemed shares were the only shares and the investors holding deemed shares were the only shareholders.”

(3) Subsections (1) and (2) apply to a payment made or to a transaction entered into after 3 p.m. on 10 June 1996.

Clause 28: To insert before subclause (1)(a) (before line 32 on page 16) the following paragraphs:

(aa) Subparagraph (ix) of the definition of quantity “b” in the definition of “available subscribed capital” is replaced by:

“(ix) In any case where—

“(A) The consideration received by the company in respect of the issue of shares (other than on an amalgamation), directly or indirectly and whether by one or a series of transactions, is in the form of shares in another company; and

“(B) Immediately after the issue, there are one or more persons the aggregate of whose common voting interests (or common market value interests), as defined in section IG 1 (5), in the company and the other company is 10% or greater,—

the amount of the consideration received by the company to the extent to which the consideration exceeds the aggregate available subscribed capital per share (calculated after deducting the ineligible capital amount, if any) in respect of the shares in the other company at the date of the receipt; or”.

(ab) In the definition of “designated group investment fund”, “section CF 2 (3) and” is inserted before “section HE 2”.

To insert after subclause (1) (after line 44 on page 17) the following subclause:

(1A) Subsection (1)(aa) and (ab) apply to a payment made or to a transaction entered into after 3 p.m. on 10 June 1996.

EXPLANATORY NOTE
GENERAL POLICY STATEMENT

Summary: The purpose of this Supplementary Order Paper is to effect a number of amendments to the Income Tax Act 1994 concerning the taxation of group investment funds. The amendments are to remedy a recently identified deficiency in the drafting of amendments that were introduced in 1992. The main effect is to align the tax treatment of distributions from group investment funds with that of unit trusts and companies.

Clause 2A: Amends section CF 2 (3) of the Act to ensure that distributions from group investment funds that are not designated group investment funds (as defined in the Act) are subject to the dividend rules, except where the investment into the group investment fund is from certain designated sources or investments made before 23 June 1983.

It also consequentially amends section CF 2 (2).

Clause 28: Amends subparagraph (ix) of item 'b' in the definition of "available subscribed capital". This provision presently states that when a company issues shares in exchange for shares, the available subscribed capital of the issuing company increases by an amount equal to the available subscribed capital of the shares transferred. The amendment narrows the scope of subparagraph (ix) so that it applies only if, immediately after the share exchange has taken place, one or more persons owns 10% or more of both the issuing company and the company whose shares were transferred.

It also amends the definition of "designated group investment fund" to refer to section CF 2 (3).