

HOUSE OF REPRESENTATIVES

# Supplementary Order Paper

Wednesday, 19 June 1991

TAXATION REFORM BILL (NO. 3)

*Proposed Amendments*

Hon. WYATT CREECH, in Committee, to move the following amendments:

*New clause 3A:* To insert, after line 28 on page 4, the following clause:

**3A. Incomes wholly exempt from tax**—Section 61 of the principal Act is hereby amended by adding the following paragraph:

“(65) Income derived by any person from any allowance that is—

“(a) Payable by the Department of Labour under the Community Taskforce scheme; and

“(b) Designated by the Minister of Labour as a Community Taskforce allowance.”

*New clause 9A:* To insert, after line 25 on page 13, the following new clause:

**9A. Standard value of livestock**—(1) Section 86 (1) of the principal Act is hereby amended by omitting the expression “; and” from the end of paragraph (a) (ii) (C) of the definition of the term “standard value” (as substituted by section 6 of the Income Tax Amendment Act (No. 2) 1988), and substituting the expression “; or”.

(2) That definition (as so substituted) is hereby further amended by adding to paragraph (a) the following subparagraph:

“(iii) In the case only of the income year commencing on the 1st day of April 1990, whichever is the lesser of the amounts determined under subparagraphs (i) and (ii) of this paragraph for the immediately preceding income year; and”.

(3) This section shall apply with respect to the tax on income derived in the income year commencing on the 1st day of April 1990.

Clause 22: To insert, after line 4 on page 24, the following subclauses:

(4A) Section 336 (1) of the principal Act (as so inserted) is hereby further amended by inserting, in their appropriate alphabetical order, the following definitions:

“‘Holder’, or ‘policyholder’, in relation to any policy of life insurance, means the person who is beneficially entitled to the rights of ownership of that policy:

“‘Life insurer’ means a person carrying on a business of providing life insurance:”.

(4B) Section 336N of the principal Act (as so inserted) is hereby amended by repealing the subsection (9) that was added by section 32 (7) of the Income Tax Amendment Act (No. 2) 1990, and substituting the following subsections:

“(8A) Where—

“(a) Any person who is a holder of a policy of life insurance offered or entered into in New Zealand owes any loan to—

“(i) The life insurer who is the insurer of the policy; or

“(ii) Any person who, in relation to the life insurer, is an associated person; or

“(iii) Any person with whom the life insurer has entered into an arrangement in relation to the provision or grant of the loan; and

“(b) Either—

“(i) The loan was granted or is provided to the person having regard to the capacity or status of the person as a policyholder; or

“(ii) The interest chargeable on the loan is determined or depends on the capacity or status of the person as a policyholder,—

this Part of this Act shall apply as if—

“(c) The life insurer were an employer of the policyholder in relation to that loan; and

“(d) The policyholder were an employee of the life insurer in relation to the loan; and

“(e) The loan were an employment related loan.

“(8B) Where—

“(a) Any person is an associated person of a holder of a policy of life insurance offered or entered into in New Zealand; and

“(b) The person owes any loan to—

“(i) The life insurer who is the insurer of the policy of that policyholder; or

“(ii) Any person who, in relation to that life insurer, is an associated person; or

“(iii) Any person with whom the life insurer has entered into an arrangement in relation to the provision or grant of the loan; and

“(c) Either—

“(i) The loan was granted or is provided to the person having regard to the capacity or status of the policyholder as a policyholder of the life insurer; or

“(ii) The interest chargeable on the loan is determined or depends on the capacity or status of the policyholder as a policyholder of the life insurer,—

this Part of this Act shall apply as if—

“(d) That life insurer were an employer of the person in relation to the loan; and

“(e) The person were an employee of the life insurer in relation to the loan; and

“(f) The loan were an employment related loan.”

(4c) Section 32 (7) of the Income Tax Amendment Act (No. 2) 1990 is hereby consequentially repealed.

To add, after line 12 on page 24, the following subclause:

(8) Subsections (4A), (4B), and (4c) of this section shall apply with respect to loans owing on and after the 1st day of October 1990.

*New clause 22A:* To insert, after clause 22 on page 24, the following clause:

**22A. Regulations**—Section 336w (2) of the principal Act (as inserted by section 34 (1) of the Income Tax Amendment Act (No. 2) 1985 and amended by section 38 (1) of the Income Tax Amendment Act (No. 4) 1986) is hereby amended by adding the following subsection:

“(3) Notwithstanding subsection (2) of this section, where any regulation made pursuant to subsection (1) (a) of this section—

“(a) Reduces the rate of interest from the rate currently prescribed; and

“(b) Is made not less than 1 month before the expiry of any quarter,—

that regulation may apply for that quarter.”

*Clause 30:* To omit from line 6 on page 26 the expression “(No. 5)”, and substitute the expression “(No. 3)”.

*New clause 31A:* To insert, after line 24 on page 27 the following clause:

**31A. Relief in cases of serious hardship**—(1) Section 414 (2) of the principal Act is hereby amended by adding the following proviso:

“Provided that the Commissioner shall exercise this discretion in such a manner as to maximise the net present value of any recovery or likely recovery from the taxpayer of any current and future tax amounts.”

(2) Section 414 (5) of the principal Act is hereby amended by omitting the expression “\$5,000” (as substituted by section 42 (1) of the Income Tax Amendment Act (No. 4) 1986), and substituting the expression “\$50,000”.

(3) Section 42 (1) of the Income Tax Amendment Act (No. 4) 1986 is hereby consequentially repealed.

*Clause 37:* To add the letter “s” to the word “copyright” at line 29 on page 31.

To insert in line 16 on page 32, after the expression “(No. 2)”, the expression “1991”.

## EXPLANATORY NOTE

New *clause 3A* amends section 61 of the Income Tax Act 1976 to exempt from tax the allowances that will be payable by the Department of Labour under the Community Taskforce scheme.

New *clause 9A* amends section 86 of the Income Tax Act 1976 in relation to standard values of livestock valued under the trading stock scheme. The definition of "standard value" is amended to provide that, for the 1990-91 income year only, the standard value for any livestock will be whichever is the lesser of the standard value for that year or the standard value for the preceding year.

The amendments to *clause 22* relate to the fringe benefit tax payable by life insurers on low-interest loans to policyholders and associated persons. The amendments apply to loans owing on and after 1 October 1990.

The current section 336N(9) of the Act subjects all loans owing by policyholders to their life insurers to the fringe benefit tax provisions of the Act as if they were employment related loans. Under the proposed new *subsection (8A)*, such a loan will not be treated as an employment related loan unless either (a) it was provided having regard to the person's capacity or status as a policyholder, or (b) the interest chargeable on the loan is determined or depends on the policyholder's capacity or status as such.

The new subsection also makes specific reference to the case where the loan is owed by the policyholder to an associated person of the life insurer, or to a person with whom the life insurer has entered into an arrangement in relation to the provision or grant of the loan.

New *subsection (8B)* makes similar provision to that in *subsection (8A)* for the case where the loan is owed by an associated person of the policyholder.

New *clause 22A* amends section 336W of the Act, which provides for the setting of the interest rate below which fringe benefit tax will be payable on employment related loans.

At present, regulations prescribing the rate for any quarter are required to be made at least 1 month before the start of the quarter. The amendment allows for the rate to be set up to 2 months into the quarter, where the regulations reduce the rate of interest from that currently prescribed.

The amendment to *clause 30* corrects an incorrect reference to an amending Act.

New *clause 31A* amends section 414 of the Act, which allows the Commissioner to remit or refund tax in cases of serious hardship.

*Subclause (1)* provides that the Commissioner's discretion under section 414 (2) is to be exercised in such a manner as to maximise the net present value of any recovery or likely recovery from the taxpayer of any current and future tax amounts.

*Subclause (2)* increases from \$5,000 to \$50,000 the maximum amount that the Commissioner can remit or refund under the section without the approval of the Minister of Finance.

The amendments to *clause 37* correct a reference to a word in the section of the Goods and Services Tax Act 1985 that the clause amends, and correct an incomplete reference to an amending Act.