

House of Representatives

Supplementary Order Paper

Tuesday, 9 August 2011

Taxation (Tax Administration and Remedial Matters) Bill

Proposed amendments

Hon Peter Dunne, in Committee, to move the following amendments:

Clause 4(3)

To replace the subclause (lines 10 to 12 on page 11) with the following:

- (3) **Subsections (1) and (2)** apply to—
 - (a) dividends derived by a company, other than a Maori authority, on or after the first day of the company's 2010–11 income year; or
 - (b) dividends derived by a Maori authority on or after the first day of the Maori authority's 2012–13 income year.

Clause 18I

Section HM 55D(3)(bb) to (d): to replace (line 33 on page 45 to line 2 on page 46) with the following:

- (c) a FIF for which the item “income interest” in section EX 50(4) (Attributable FIF income method), for a person who is a New Zealand resident and the FIF, is 10% or more; or
- (d) a non-resident trustee of a trust that is not a foreign trust.

New clause 79BB

To insert, after *clause 79B* (after line 9 on page 106), the following:

79BB New section 183CB

After section 183CA, the following is inserted:

**“183CB Cancellation of interest charged on payments under
PAYE rules or provisional tax rules arising from work in
Canterbury earthquake recovery programme**

- “(1) This section applies for a person (the **earner**) who derives income in the form of payment for work in the programme for the recovery of Canterbury from the Canterbury earthquakes, as defined in the Canterbury Earthquake Recovery Act 2011, when—
- “(a) the earner is a non-resident, or is treated as a non-resident under a relevant double tax agreement, on 4 September 2010 and—
 - “(i) is a natural person who arrives in New Zealand after that date; or
 - “(ii) is not a natural person and, under the double tax agreement, has no permanent establishment in New Zealand on 4 September 2010 but after that date has a permanent establishment in New Zealand or is a resident and not treated as a non-resident; and
 - “(b) the income relates to a period beginning after 4 September 2010 and ending before 4 September 2011.
- “(2) If a person is required under the PAYE rules to withhold an amount of tax from a PAYE income payment to the earner for the work and does not pay the amount to the Commissioner by the time required by the PAYE rules, the Commissioner must, on receiving an application by the person, cancel the person’s liability to pay interest under Part 7 for the period—
- “(a) beginning on the day of the PAYE income payment; and
 - “(b) ending on the earlier of—
 - “(i) 4 September 2011;
 - “(ii) the first day on or after the day of the PAYE income payment on which it is clear that the person has a withholding liability in New Zealand.
- “(3) If the earner is a provisional taxpayer with residual income tax that is treated for the purposes of Part 7 as due and payable in more than 1 instalment, the Commissioner must, on receiving an application by the earner, cancel the earner’s liability to pay interest under Part 7 on each instalment for the period—
- “(a) beginning on the due date of the instalment; and
 - “(b) ending on the earlier of—
 - “(i) 4 September 2011;
 - “(ii) the first day on or after the due date of the instalment on which it is clear that the earner has an income tax liability.”
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Explanatory note

This Supplementary Order Paper amends the Taxation (Tax Administration and Remedial Matters) Bill. It adds a new provision to relieve interest charged on overdue tax for some workers involved in the recovery from the Canterbury earthquakes. It also makes 2 minor technical amendments to existing provisions in the bill.

A regulatory impact statement was prepared for the new provision concerning interest relief. A copy of the statement is available at the following internet site: <http://taxpolicy.ird.govt.nz/publications/type/ris>. No regulatory impact statement was required for the 2 minor amendments.

Clause 4(3) is amended so that the application of the clause to companies that are Maori authorities is not retrospective.

Clause 18I is amended to prevent a non-resident trustee of a trust that is not a foreign trust from being a notified foreign investor under *new section HM 55D* of the *Income Tax Act 2007*. The amendment also removes an unnecessary paragraph and adjusts the paragraph numbering.

New clause 79BB is added to insert *new section 183CB* of the *Tax Administration Act 1994*. The new section provides interest relief on tax obligations relating to certain foreign workers who are assisting in the recovery from the Canterbury earthquakes. When the workers stay in New Zealand for more than a given period, tax obligations relating to PAYE withholding and provisional tax are backdated to the first day of presence in New Zealand. The backdating often means that payments of tax are overdue. Currently, interest is imposed on the overdue tax, but this is inappropriate in the circumstances. The new section requires the Commissioner to cancel the liability to pay the interest. The relief is available for payments of tax due after *4 September 2010* and periods ending on *4 September 2011* at the latest.
