

House of Representatives
Supplementary Order Paper

Tuesday, 3 November 2015

**Taxation (Annual Rates for 2015-16, Research and Development,
and Remedial Matters) Bill**

Proposed amendments

Hon Todd McClay, in Committee, to move the following amendments:

Clause 2

In *clause 2(2)(a)*, replace “**50(2)**” (page 14, line 10) with “**50(1AA) and (2)**”.

In *clause 2(2)(d)*, replace “**and 50(9)**” (page 14, line 16) with “**, 50(9), and 64A**”.

After *clause 2(17)* (page 15, after line 23), insert:

(17B) **Section 218(2B) and (2C)** come into force on 28 March 2011.

After *clause 2(21)* (page 15, after line 29), insert:

(21B) **Sections 251BA and 251D** come into force on 1 October 2011.

In *clause 2(25)*, replace “**Section 84(1)**” (page 15, line 33) with “**Sections 79B and 84(1)**”.

In *clause 2(27)*, replace “**213(22), (23)**” (page 16, line 3) with “**213(23)**”.

In *clause 2(28)*, replace “**75D and 264**” (page 16, line 5) with “**75D, 218B, 247B, and 264**”.

Clause 41

In *clause 41(2)*, *new section 106B(3)(a)*, replace “the person” (page 28, lines 8 and 9) with “the other person”.

New clause 44E

After *clause 44D* (page 32, after line 22), insert:

44E Section 152B amended (Offsetting child support payments)

In section 152B(2), replace “the parent” with “the other parent”.

Clause 50

Before *clause 50(1)* (page 33, before line 20), insert:

- (1AA) In the heading to Schedule 1, replace “**Transitional**” with “**Application, transitional,**”.

In *clause 50(6)*, replace *new clause 1A(3)* (page 34, lines 17 and 18) with:

- (3) **Subclause (1)** does not prevent—
- (a) section 179A(3) from applying in relation to child support payments in respect of a child support year ending before 1 April 2015; or
- (b) where section 179A(3) applies in relation to any such payments, relief being given under section 135F(a)(i) in respect of any related penalties.

New clause 64A and cross-heading

After *clause 64* (page 40, after line 9), insert:

Amendment to Social Security Act 1964

64A Section 70A of Social Security Act 1964 amended (Rates of benefits for sole parents may be reduced)

Replace section 70A(1)(b)(v) of the Social Security Act 1964 with:

- (v) jobseeker support, except where granted under section 88C(2) or (3); or

Clause 69B

Replace *clause 69B(1)* (page 41, line 7) with:

- (1) In section CE 1C(1), replace “section CE 1B(1)” with “section CE 1B”.

In *clause 69B(2)*, replace “Insert after section CE 1C(1)” (page 41, line 8) with “After section CE 1C(1), insert”.

Clause 71

In *clause 71(8)*, replace “Insert, after section CF 3(9)(b)(i)” (page 44, line 1) with “After section CF 3(9)(b)(i), insert”.

Clause 73

In *clause 73*, heading, after “**inserted**” (page 45, line 1), insert “**(Disposal or rerecognition of derecognised non-depreciable assets)**”.

Clause 75C

Replace *clause 75C(1)* (page 46, lines 22 to 25) with:

- (1) Replace section CW 42(1)(c) with:

- (c) no person with some control over the business is able to direct or divert an amount derived from the business to the benefit or advantage of,—
 - (i) if **subparagraph (ii)** does not apply, a person other than the trust, society, or institution except for a purpose of the trust, society, or institution:
 - (ii) if a trust, society, or institution (the **operating entity**) is carrying on the business for or for the benefit of another trust, society, or institution (the **controlling entity**), a person other than the operating entity or the controlling entity except for a purpose of the operating entity or the controlling entity.

Clause 75D

Replace *clause 75D(1) and (2)* (page 46, lines 29 to 35) with:

- (1) In section CW 42B(2), words before the paragraphs, replace “a trust and its trustees, or a company (as applicable, the **entity**), whose activities are predominantly the provision of housing” with “a trustee or company (the **entity**) whose activities involve the provision of housing or housing assistance”.
- (2) Replace section CW 42B(2)(c) with:
 - (c) no person with some control over the activities is able to direct or divert an amount derived from the activities to the benefit or advantage of,—
 - (i) if **subparagraph (ii)** does not apply, a person other than the entity except for a purpose of the entity or a charitable purpose:
 - (ii) if the entity (the **operating entity**) is carrying on the activities for or for the benefit of a community housing entity or charity (the **controlling entity**), a person other than the operating entity or the controlling entity except for a purpose of the operating entity or the controlling entity or for a charitable purpose.

Replace *clause 75D(4)* (page 47, lines 1 and 2) with:

- (4) Replace section CW 42B(3)(a) and (b) with:
 - (a) more than 15% of the people who become beneficiaries or clients of the entity on a date that is or is after 14 April 2014 have, on that date, income or assets exceeding a value (the **entry threshold**) set out in **schedule 34** (Community housing trusts and companies: income and assets of beneficiaries and clients) that is relevant to the beneficiary or client:

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- (b) the provision of housing or housing assistance to a beneficiary or client who has income and assets not exceeding the entry thresholds is substantially different from the provision of housing or housing assistance to a beneficiary or client who has income or assets exceeding an entry threshold.

New clause 79B

After *clause 79* (page 48, after line 10), insert:

79B Section CZ 27 amended (Prior bad debt deductions clawback)

In section CZ 27(2), replace “section DB 31(4B)” with “section DB 31(**3B**), (**4B**)”.

Clause 140

In *clause 140(5)* (page 76, line 37), delete “(Non-attributing Australian CFCs)”.

Clause 143

In *clause 143*, replace “FIF income or loss, or” (page 77, line 19) with “, FIF income or loss, or”.

Clause 151B

Delete *clause 151B(3)* (page 83, line 15).

Clause 153

In *clause 153(1)*, replace “section FE 1(a)(iii)” (page 83, line 27) with “section FE 1(1)(a)(iii)”.

Delete *clause 153(2)* (page 83, line 32).

Clause 192(1): section MX 3

Subsection (3)(a)(iii): replace “the amounts” (page 99, line 34) with “the amount”.

Subsection (3)(a)(iii): replace “those amounts” (page 99, line 35) with “that amount”.

Subsection (3)(b)(iii): replace “total of amounts of expenditure” (page 100, line 13) with “amount”.

Subsection (3)(b)(iii): replace “for employees” (page 100, line 14) with “for each employee”.

Subsection (3B): heading: replace “Optional amounts for” (page 100, line 17) with “Amount for optional inclusion in”.

Subsection (3B): replace “**and (b)**” (page 100, line 19) with “**and (b)(iii)**”.

Subsection (3B): replace “labour expenditure is” (page 100, line 21) with “labour expenditure is the total of all”.

Clause 213

In *clause 213(14)*, replace “that section and section” (page 116, lines 6 and 7) with “sections CX 30 and”.

Delete *clause 213(22)* (page 116, lines 27 to 30).

In *clause 213(27)(a)*, replace “losses), sections” (page 117, line 33) with “losses), in sections”.

In *clause 213(47)*, after “**work**,” (page 120, line 8), insert “paragraph (a),”.

In *clause 213(60)*, after “**right**,” (page 122, line 30), insert “in the first place it appears,”.

Clause 217

In *clause 217(1)*, replace “After schedule 20” (page 125, line 21) with “Before schedule 24”.

Clause 218

After *clause 218(2)* (page 125, after line 28), insert:

(2B) In schedule 32, delete the item “Children on the Edge (NZ) Trust”.

(2C) In schedule 32, insert, in appropriate alphabetical order, the item “SpinningTop Trust”.

New clause 218B

After *clause 218* (page 126, after line 3), insert:

218B New schedule 34 inserted (Community housing trusts and companies: income and assets of beneficiaries and clients)

After schedule 33, insert new **schedule 34** as provided in **schedule 1B** of this Act.

Clause 221

Replace “**247**” (page 126, line 16) with “**247B**”.

New clause 247B

After *clause 247* (page 133, after line 1), insert:

247B Section 225D amended (Regulations: community housing trusts and companies)

(1) Replace section 225D(1) with:

(1) The Governor-General may, from time to time, by Order in Council make regulations, on the combined recommendation of the Minister of Revenue and the Minister for Housing, amending threshold values set out in **schedule 34** of the Income Tax Act 2007 relating

to the income and assets of a person when the person becomes a beneficiary or client of a community housing trust or company.

- (2) Repeal section 225D(2).

Clause 251

In *clause 251(1)*, in each place it appears, replace “5(3B)” (page 134, line 7) with “(3B)”.

New clause 251BA

After *clause 251* (page 134, after line 9), insert:

251BA Section 20 amended (Calculation of tax payable)

After section 20(3)(hb), insert:

- (hc) an amount calculated in accordance with **section 21HC** in relation to a supply acquired in the taxable period by a unit title body corporate of which the registered person is a member; and

Clause 251C

In *clause 251C*, heading, replace “**relating**” (page 134, line 15) with “**related**”.

New clause 251D

After *clause 251C* (page 134, after line 28), insert:

251D New section 21HC inserted (Transitional rules relating to members of unit title bodies corporate)

After section 21HB, insert:

21HC Transitional rules relating to members of unit title bodies corporate

- (1) A member of a unit title body corporate that acquires a supply of goods or services (the **corporate supply**) on or before 26 February 2015 and in a taxable period ending on or after 1 November 2010 may make a deduction under **section 20(3)(hc)** for the taxable period if—
- (a) at the time of the corporate supply, the unit title body corporate is not a registered person and the member is a registered person; and
 - (b) the unit title body corporate acquires the corporate supply for the purpose of making a supply (the **membership supply**) under a power or duty set out in section 84 of the Unit Titles Act 2010 that the member uses in making taxable supplies; and

- (c) before 3 November 2015, the member makes a return for the taxable period that treats part of the corporate supply as being acquired by the member for use in making taxable supplies; and
- (d) the member maintains sufficient records to enable the Commissioner to ascertain—
 - (i) the nature of the corporate supply and the membership supply; and
 - (ii) the amount that the member pays to the unit title body corporate for the membership supply; and
 - (iii) that the corporate supply is a taxable supply; and
 - (iv) that the membership supply is used by the member in making taxable supplies.
- (2) If the corporate supply is acquired for the purpose of making a membership supply for which the unit title body corporate charges the member on a basis other than the member’s ownership interest or utility interest, as defined in section 5 of the Unit Titles Act 2010, the amount that the member may deduct is the tax fraction of the amount charged to the member for the membership supply.
- (3) For a corporate supply to which **subsection (2)** does not apply, the amount that the member may deduct is the tax fraction of an amount that, as a proportion of the amount paid by the unit title body corporate for the corporate supply, is fair and reasonable based on the proportion that the member owns of the total ownership interest and utility interest in the body corporate as defined in section 5 of the Unit Titles Act 2010.

Clause 262

In *clause 262*, replace “**263 to 265**” (page 142, line 32) with “**263B and 264**”.

Clause 263

Delete *clause 263* (page 142, lines 34 and 35).

Clause 265

Delete *clause 265* (page 143, lines 22 to 24).

Clause 265B

In *clause 265B*, heading, delete “**(Expenditure on farming, horticultural, aquacultural, and forestry improvements)**” (page 143, lines 27 and 28).

Schedule 1

In *schedule 22*, shoulder note, replace “**definition of R&D material**” (page 145, line 6) with “**definitions of R&D expenditure, R&D material**”.

New schedule 1B

After *schedule 1* (after page 145), insert:

**Schedule 1B
New schedule 34 inserted**

s 218B

**Schedule 34
Community housing trusts and companies: income and
assets of beneficiaries and clients**

s CW 42B

1 Income threshold

- (1) The threshold income for an applicant who is not a member of a group of applicants is \$80,000.
- (2) The threshold income for the members of a group of applicants is \$120,000 in total for the group.

2 Threshold asset value

- (1) There is no threshold asset value for an applicant who has not been a land owner before applying for assistance from the entity in a proposed purchase.
- (2) The threshold asset value for an applicant who has been a land owner before applying for assistance from the entity in a proposed purchase is—
 - (a) \$110,000, if the proposed purchase is of an estate in land in Auckland:
 - (b) \$90,000, if the proposed purchase is of an estate in land in Hamilton City, Tauranga City, Western Bay of Plenty District, Kapiti Coast District, Porirua City, Upper Hutt City, Hutt City, Wellington City, Nelson City, Tasman District, Waimakariri District, Christchurch City, Selwyn District, or Queenstown Lakes District:
 - (c) \$70,000, if the proposed purchase is of an estate in land in a geographical area of New Zealand not listed in **paragraphs (b) and (c)**.

3 Meaning of terms

In this schedule,—

applicant means a person who—

- (a) successfully applies for housing or housing assistance from an entity that is a community housing trust or company; or
- (b) is 1 of a group of persons that successfully applies for housing or housing assistance from an entity that is a community housing trust or company

application date, for an applicant, means the date on which the person makes an application for housing or housing assistance from an entity that is a community housing trust or company

asset value means the total value of property owned by the applicant, at the application date, that is available to the applicant for the purchase of an estate in land and is—

- (a) money in a bank account, including a fixed or term deposit;
- (b) a share, stock, or bond;
- (c) an investment in a bank or financial institution;
- (d) money paid to, or held by, a real estate agent or solicitor as a deposit in the purchase of a home;
- (e) a boat or caravan with a value of more than \$5,000;
- (f) a vehicle not being used as a usual method of transport;
- (g) an asset of another type, with a value of more than \$5,000

income means an amount, for an applicant and the 12-month period ending with the application date (the **application year**), that is—

- (a) if the applicant carries on a business at any time in the application year, the amount that would be the applicant's net income for the application year if the application year were an income year; or
- (b) if the applicant does not meet the requirements of **paragraph (a)**, the amount of assessable income derived by the applicant in the application year

land owner means a person who holds an estate in land, whether alone or as a joint tenant or tenant in common, as determined under schedule 1 of the KiwiSaver Act 2006, clause 8(5) and (6).

Schedule 2

Delete both of the entries amending *section LH 17* (page 152).

Explanatory note

This Supplementary Order Paper amends *Part 1* of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Bill (child support remedial matters) by amending *clauses 41(2) and 50* and inserting *new clauses 44E and 64A*. The amendment to *clause 41(2)* clarifies that the new offsetting provision in *new*

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section 105(2)(e) of the Child Support Act 1991 (inserted by *clause 40(4)*) is not to apply to a liability to pay child support in respect of a period if the person in whose favour the child support is payable is a social security beneficiary during that period. *New clause 44E* makes a corresponding amendment to the existing offsetting provision in section 152B of the Child Support Act 1991. The amendments to *clause 50* are minor and consequential. *New clause 64A* amends section 70A of the Social Security Act 1964 (which provides for reductions of social security benefits in support of the administration of the Child Support Act 1991) to make a change corresponding to the change to the definition of social security benefit in the Child Support Act 1991 being made by *clause 4(3) and (4)*.

The Supplementary Order Paper also makes amendments to other Parts of the bill. Some amendments provide for criteria, relating to beneficiaries or clients of a community housing trust or company, that determine whether the trust or company is a community housing entity for the purposes of section CW 42B of the Income Tax Act 2007. As part of those amendments, *clause 75D(4)* is replaced so that it amends section CW 42B(3) to refer to the criteria in *new schedule 34* of the Income Tax Act 2007. The schedule is inserted by *new clause 218B* and *new schedule 1B*. In addition, *new clause 247B* is inserted to amend section 225D of the Tax Administration Act 1994. *Clause 247B(1)* replaces section 225D(1) with a provision that authorises an Order in Council to amend the figures in *new schedule 34*. *Clause 247B(2)* repeals section 225D(2).

Amendments to *clause 192* relate to an option that is available to a taxpayer in determining whether the taxpayer is eligible for the R&D tax credits that are proposed in the bill. Under proposed section MX 3 of the Income Tax Act 2007, the taxpayer may choose to include listed amounts as part of expenditure on employees. The amendments clarify that all the amounts in the list must be included if the taxpayer uses the option.

New clause 251D amends the Goods and Services Tax Act 1985 by inserting a transitional provision relating to the optional registration of unit title bodies corporate. *New section 21HC* provides for registered persons who, in the period between 1 October 2011 and the introduction of the Bill, have been members of a unit title body corporate that is not a registered person and that has received taxable supplies and used those supplies in making supplies to members. A member who has claimed input tax relating to the taxable supplies received by the unit title body corporate is allowed to deduct input tax equal to a proportion, given by the member's ownership interest in the unit title body corporate under the Unit Titles Act 2010, of the input tax that the unit title body corporate could have claimed in relation to a taxable activity of making supplies to members.

Amendments to *clause 218* reflect a change, on 28 March 2011, in the name of an entity that is listed in schedule 32 of the Income Tax Act 2007 as a recipient of charitable or other public benefit gifts.

Minor amendments are made to *clauses 69B, 71, 73, 140, 143, 151B, 153, 213, 217, 251, 251C, 263, 265, and 265B, and schedules 1 and 2* and by *new clause 79B*. In

clauses 69B(1) and 71(8), wording is corrected for consistency of style. In *clauses 73, 251C, and 265B*, the heading is corrected. In *new clause 79B and clauses 140(5), 153(1), 213(14), and 251(1)*, cross-references are corrected. In *clause 143*, punctuation is changed. *Clauses 151B(3), 153(2), 213(22), 263, and 265* and 2 entries in *schedule 2* are unnecessary, because of other changes, and are removed. In *clause 213(27)(a)*, a missing word is inserted. In *clauses 213(47) and (60) and 217(1)*, the place where an amendment is to be made is clarified. In *schedule 1*, an additional cross-reference is included in the shoulder note for the inserted schedule.

Departmental disclosure statement

The Inland Revenue Department is required to prepare a disclosure statement to assist with the scrutiny of this Supplementary Order Paper. The disclosure statement provides access to information about any material policy changes to the Bill and identifies any new significant or unusual legislative features of the Bill as amended.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=sop&subtype=government&year=2015&no=129&>

Regulatory impact statement

The Inland Revenue Department produced a regulatory impact statement on 10 June 2015 to help inform the new policy decisions taken by the Government relating to the contents of this SOP.

Copies of this regulatory impact statement can be found at—

- <http://taxpolicy.ird.govt.nz/publications/type/ris>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>