

House of Representatives

Supplementary Order Paper

Tuesday, 11 February 2014

Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Bill

Proposed amendments

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

Clause 2

Subclause (3): replace “**57B, 59(1A) and (3)**” (page 10, lines 10 and 11) with “**57B, 58(1A), (3), and (4), 59(1A) and (3), 59BA, 59BAB**”.

Subclause (3): after “**102(2)**,” (page 10, line 11), insert “**102B, 102C, 102D**,”.

Subclause (11): replace “**72**” (page 11, line 5) with “**29B, 72**”.

New subclause (11B): after *subclause (11)* (page 11, after line 6), insert:

(11B) **Sections 119 to 122** come into force on 17 April 2013.

Subclause (14): replace “**58**” (page 11, line 17) with “**58(1) and (2)**”.

Clause 25

Section CZ 21B(1)(a): insert after “annuity” (page 34, line 7) “, or applies for the withdrawal of such an amount,”.

Section CZ 21B(5): replace subsection (page 35, lines 4 to 9) with:

Relationship with law otherwise applicable to withdrawal and interest in scheme

(5) This section overrides—

(a) **section CF 3** (Withdrawals from foreign superannuation scheme):

(b) for omitted withdrawals derived on or before 31 March 2014, the law that would apply in the absence of this section to the withdrawal at the time of the derivation of the withdrawal:

(c) the law that would apply in the absence of this section to the person’s interest in the foreign superannuation scheme for the period ending by 31 March 2014.

New clause 29B

Insert after *clause 29* (after page 42, line 2):

29B Section DG 3 amended (Meaning of asset for this subpart)

- (1) Repeal section DG 3(4)(c).
- (2) **Subsection (1)** applies for the 2013–14 and later income years.

Clause 35(1)

Section DU 1(1)(b): replace “**section DU 6**” (page 43, lines 18 and 19) with “**sections DU 5B and DU 5C**”.

Section DU 12, heading: replace “**expenditure**” (page 53, line 14) with “**expenditure: exclusion of operational expenditure**”.

Clause 52B

Subclause (3)(b): replace “appears” (page 76, line 25) with “appears, and delete ‘with or’ ”.

Subclause (4): replace “appears” (page 76, line 27) with “appears, and delete ‘with or’ ”.

Subclause (5): after *paragraph (a)* (page 76, after line 30), insert:

- (ab) in paragraph (a), words before subparagraph (i), delete “with or”:

Subclause (8): after *section EZ 23B(11B)* (page 77, after line 29), insert:

Order of acquisition for items acquired at same time

- (11C) If items of replacement property are acquired at the same time and the effect of this section depends on the order in which the items are acquired, the items are treated as being acquired in the order chosen by the person in the first return of income for which the order of acquisition is taken into account.

Clause 52C: section EZ 23BB

Subsection (4)(a): delete “with or” (page 79, line 38).

Subsection (5)(a)(ii): delete “with or” (page 80, line 11).

After subsection (13) (page 83, after line 21), insert:

Order of acquisition for items acquired at same time

- (13B) If items of replacement property are acquired at the same time and the effect of this section depends on the order in which the items are acquired, the items are treated as being acquired in the order chosen by the person in the first return of income for which the order of acquisition is taken into account.

Clause 58

After the *clause heading* (page 91, after line 5) insert:

- (1A) After section FM 31(1)(e), insert:

“(eb) it is a member of the same wholly-owned group of companies as the other members of the consolidated group; and”.

After *subclause (2)* (page 91, after line 10), insert:

- (3) In section FM 31, list of defined terms, insert “wholly-owned group of companies”.
- (4) **Subsection (1A)** applies for the 2008–09 and later income years.

New clauses 59BA and 59BAB

After *clause 59* (page 91, after line 24), insert:

59BA Section FM 40 amended (Losing eligibility or entitlement to be part of consolidated group)

- (1) In section FM 40(5), replace “on the date on which” with “at the beginning of the tax year in which”.
- (2) In section FM 40, list of defined terms, insert “tax year”.
- (3) **Subsection (1)** applies for the 2008–09 and later income years.

59BAB Section FN 12 amended (Company no longer eligible or entitled to membership)

- (1) In section FN 12(5), replace “on the date on which” with “at the beginning of the tax year in which”.
- (2) **Subsection (1)** applies for the 2008–09 and later income years.

Clause 80

Subclause (3)(b): replace “ ‘mineral miner’ ” (page 99, line 35) with “ ‘mineral miner’ and ‘operational expenditure’ ”.

Clause 88(1)

Section LU 1(4D): replace “**(4C)(a)**” (page 104, line 22) with “**(4C)**”.

New clauses 102B to 102D

After *clause 102* (page 114, after line 27), insert:

102B Section RD 10 amended (Amounts of tax for PAYE income payments)

- (1) In section RD 10(3)(b), words before subparagraph (i), replace “payment” with “payment, other than GST”.
- (2) **Subsection (1)** applies for the 2008–09 and later income years.

102C Section RE 4 amended (Persons who have withholding obligations)

- (1) In section RE 4(1), replace “must” with “meets the requirements of this section for an obligation to withhold an amount of tax if they”.
- (2) Replace section RE 4(4)(a) and (b) with:
 - “(a) for an amount payable in relation to money lent or to shares issued by another person,—
 - “(i) the payment is attributable to or effectively connected with a fixed establishment of the person outside New Zealand; and
 - “(ii) all amounts payable in relation to the money lent or to the shares are payable in a currency other than New Zealand currency:
 - “(b) for dividends payable in relation to shares issued by the person, the person is not required by generally accepted accounting practice to express its financial statements in New Zealand currency.”
- (3) **Subsections (1) and (2)** apply for a person and a payment made in the 2008–09 or a later income year, except if—
 - (a) the person makes the payment before the date on which the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act **2013** receives the Royal assent; and
 - (b) the person withholds from the payment an amount required by the law that would apply to the payment in the absence of **subsection (2)**.

102D Section RM 13 amended (Limits on refunds for ICA companies)

- (1) In section RM 13(3), first sentence, after “a tax year”, insert “and files the return within the extended time allowed”.
- (2) **Subsection (1)** applies for the 2008–09 and later income years.

Clause 110

Subclause (1): section 21C(1): after paragraph (c) (page 123, after line 25):
insert:

- (d) the period for which financial statements must be prepared.

Delete *subclause (3)* (page 124, lines 18 to 20).

Clause 111

Delete *subclause (2)* (page 124, lines 26 to 28).

Clause 116B

After “section OB 1” (page 129, line 7), insert “of the Income Tax Act 2004”.

New headings and clauses 119 to 137

After *clause 118* (page 130, after line 28), insert:

Child Support Act 1991

119 Child Support Act 1991

Sections 120 to 122 amend the Child Support Act 1991.

120 Section 3A amended (Transitional and savings provisions relating to amendments to this Act)

In section 3A, replace “1 April 2014” with “1 April 2015”.

121 Section 276 amended (Transitional and savings provisions relating to amendments to Act)

In section 276, replace “1 April 2014” with “1 April 2015”.

122 Schedule 1 amended (Transitional and savings provisions relating to amendments to Act made on or after 1 April 2014)

- (1) In the heading to Schedule 1, replace “**1 April 2014**” with “**1 April 2015**”.
- (2) In Schedule 1, clause 1, definition of **commencement date**,—
 - (a) replace “1 April 2014” with “1 April 2015”;
 - (b) replace “sections 6, 31” with “sections 6, 18, 19, 19A, 31”.
- (3) In Schedule 1, clause 1, definition of **new assessment**, replace “31 March 2015” with “31 March 2016”.
- (4) In Schedule 1, clause 2(1), replace “1 April 2014” with “1 April 2015”.
- (5) In Schedule 1, clause 8(4), replace “1 April 2016” with “1 April 2017”.

Child Support Amendment Act 2013

123 Child Support Amendment Act 2013

Sections 124 to 137 amend the Child Support Amendment Act 2013.

124 Section 2 amended (Commencement)

Replace section 2(2) and (3) with:

- “(2) Sections 18, 19, and 19A come into force on 1 April 2014.

“(3) Sections in Part 1 not referred to in subsection (1) or (2) come into force on 1 April 2015.

“(4) Part 2 comes into force on 1 April 2016.”

125 Section 9 amended (Children who qualify for child support)

In section 9(2), subsection (4), replace “1 April 2014” with “1 April 2015”.

126 Section 12 amended (New headings and sections 29 to 36D substituted)

In section 12, section 35(2), replace “1 April 2014” with “1 April 2015”.

127 New section 19A inserted (Section 89F amended)

After section 19, insert:

“19A Section 89F amended (Exemption does not apply at any time during child support year if income criteria not met at any time during relevant period)

“(1) In section 89F(1)(a)(i), after ‘income’, insert ‘(subject to section 89C(1A))’.

“(2) In section 89F(1)(a)(ii), after ‘income’, insert ‘(subject to sections 89C(1A) and 89D(1A))’.”

128 Section 38 amended (New heading and sections 129 to 131B substituted)

(1) In section 38, section 129(1), replace “1 April 2015” with “1 April 2016”.

(2) In section 38, section 129(4)(b), replace “1 April 2015” with “1 April 2016”.

(3) In section 38, section 129(6), replace “1 April 2015” with “1 April 2016”.

(4) In section 38, section 130, words before paragraph (a), replace “1 April 2015” with “1 April 2016”.

129 Section 39 amended (New sections 134 to 134B substituted)

In section 39, section 134(1), replace “1 April 2015” with “1 April 2016” in each place where it appears.

130 Section 40 amended (Interpretation for purposes of sections 135A to 135O)

In section 40(2), defined terms, replace “1 April 2015” with “1 April 2016” in each place where it appears.

131 Section 43 amended (New section 135FA inserted)

- (1) In section 43, section 135FA, heading, replace “1 April 2015” with “1 April 2016”.
- (2) In section 43, section 135FA(1), replace “1 April 2015” with “1 April 2016”.

132 Section 46 amended (New sections 135GB and 135H inserted)

- (1) In section 46, section 135GB, heading, replace “1 April 2015” with “1 April 2016”.
- (2) In section 46, section 135GB(1), replace “1 April 2015” with “1 April 2016” in each place where it appears.
- (3) In section 46, section 135H, heading, replace “1 April 2015” with “1 April 2016”.
- (4) In section 46, section 135H(1), replace “1 April 2015” with “1 April 2016” in each place where it appears.

133 Section 52 amended (Overpayments to payees)

- (1) In section 52(1), replace “1 April 2015” with “1 April 2016”.
- (2) In section 52(2), replace “1 April 2015” with “1 April 2016”.

134 Section 53 amended (New section 151AA inserted)

- (1) In section 53, section 151AA, heading, replace “1 April 2015” with “1 April 2016”.
- (2) In section 53, section 151AA(1), replace “1 April 2015” with “1 April 2016”.

135 Section 62 amended (New section 276 substituted)

- (1) In section 62, words before section 276, after “this Act”, insert “and amended by the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act **2013**”.
- (2) In section 62, section 276(1), replace “1 April 2014” with “1 April 2015”.
- (3) In section 62, section 276(2), table, column 1, row 1, replace “6, 31” with “6, 18, 19, 19A, 31”.

136 Section 63 amended (Schedule 1 amended)

- (1) In section 63(1), heading, replace “1 April 2014” with “1 April 2015”.
- (2) In section 63(2), heading, replace “1 April 2015” with “1 April 2016”.

- (3) In section 63(2), clause 9, words before paragraph (a), replace “1 April 2015” with “1 April 2016” in each place where it appears.
- (4) In section 63(2), clause 10, heading, replace “**1 April 2015**” with “**1 April 2016**”.
- (5) In section 63(2), clause 10(1), replace “1 April 2015” with “1 April 2016” in each place where it appears.
- (6) In section 63(2), clause 10(2), replace “1 April 2015” with “1 April 2016” in each place where it appears.
- (7) In section 63(2), clause 10(3),—
 - (a) replace “1 April 2015” with “1 April 2016” in each place where it appears:
 - (b) replace “25 March 2015” with “25 March 2016”.
- (8) In section 63(2), clause 10(4),—
 - (a) replace “1 April 2015” with “1 April 2016” in each place where it appears:
 - (b) replace “1 March 2015” with “1 March 2016”.
- (9) In section 63(2), clause 10(5),—
 - (a) replace “1 April 2015” with “1 April 2016” in each place where it appears:
 - (b) replace “1 March 2015” with “1 March 2016”.
- (10) In section 63(2), clause 10(6), replace “1 April 2015” with “1 April 2016” in each place where it appears.

137 Schedule 3 amended (Consequential amendments to principal Act)

In schedule 3, repeal the amendment to section 89F(1)(a)(ii).

Explanatory note

This Supplementary Order Paper makes technical changes to the *Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Bill*. It also inserts clauses amending the *Child Support Amendment Act 2013* and *Child Support Act 1991* so as to delay some changes made by the *Child Support Amendment Act 2013* to the *Child Support Act 1991*.

Amendments to *clause 25* extend the application of proposed *section CZ 21B* to include withdrawals from foreign superannuation funds for which a person applies before *1 April 2014*, in addition to withdrawals that are derived before that date.

New clause 29B repeals *section DG 3(4)(c)*, which contains an exclusion from the rules on expenditure relating to certain assets. The provision is repealed because it excludes a wider range of property than was intended.

Amendments to *clauses 35, 80, 88(1), and 116B* correct cross-references.

Amendments to *clauses 52B and 52C* clarify rules relating to depreciable property damaged by Christchurch earthquakes to allow for items of replacement property acquired at the same time.

Amendments to *clause 58* and *new clauses 59BA, 59BAB, and 102B to 102D* make changes recommended by the Rewrite Advisory Panel to correct unintended legislative changes made in the drafting of the *Income Tax Act 2007*.

Amendments to *clause 110 and 111* provide for the application periods of Orders in Council prescribing requirements for the preparation of financial statements.

New clauses 119 to 137 are inserted. The provisions change the time at which provisions in the *Child Support Amendment Act 2013* come into force. They also make consequential amendments to that Act and to the *Child Support Act 1991*, in particular by changing references to dates. Some provisions originally intended to come into force on *1 April 2014* are to come into force on *1 April 2015* and some changes originally intended to come into force on *1 April 2015* are to come into force on *1 April 2016*. The consequential amendments to the *Child Support Act 1991* are to provisions that were amended by the *Child Support Amendment Act 2013* with effect from *17 April 2013*.

Departmental disclosure statement

The Inland Revenue Department is required to prepare a disclosure statement to assist with the scrutiny of this Supplementary Order Paper. It 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=2014&no=413&>.