

HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Tuesday, 30 March 1993

INCOME TAX AMENDMENT BILL (NO. 13)

Further Proposed Amendments

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

Clause 3: To omit from line 26 on page 4 the word "definitions", and substitute the word "definition".

To omit from lines 29 and 30 on page 4 the definition of the term "entertainment facility".

To omit subclause (9) (all the words in lines 27 to 31 on page 5).

Clause 4: To insert in line 26 on page 9, after the word "determined", the words "in each case".

To omit from line 10 on page 16 the expression "section 245GA (8)", and substitute the expression "section 245GA (9)".

Clause 26: To insert in line 20 on page 73, and also in line 26 on that page, after the word "morning", the word "tea".

To omit from line 32 on page 76 the words "in a day", and substitute the words "per person per day".

To omit from line 37 on page 76 the word "seminar", and substitute the word "conference".

To omit from line 37 on page 76 the words "per day", and substitute the words "per person per day".

To insert in line 41 on page 76, after the word "would", the word "not".

To omit from line 13 on page 77 the words "a person", and substitute the words "the person".

Clause 39: To insert, after line 9 on page 96, the following subclause:

(1A) Section 191N (9) (d) of the principal Act (as so inserted) is hereby amended by omitting the expression "(4) (c)", and substituting the expression "(4) (a), (4) (b)".

Clause 45: To omit from line 19 on page 102 the words "lessee's acquisition cost", and substitute the words "lessor's disposition value".

To omit from line 24 on page 102 the word "lessor's", and substitute the word "lessee's".

Clause 53: To insert in line 39 on page 111, after the word "persons", the expression "; and".

To omit from line 5 on page 116 the words "the business", and substitute the words "a business".

To omit from line 15 on page 118 the expression "; and".

To omit paragraph (e) of section 245GA (9) (all the words in line 16 on page 118).

Clause 56: To insert in line 30 on page 124, after the word “that”, the word “other”.

To insert, after line 13 on page 125, the following subclause:

(3A) Section 245J of the principal Act (as so inserted) is hereby further amended by repealing subsection (25), and substituting the following subsection:

“(25) Where the controlled foreign company would, if it were resident in New Zealand, have an interest in a foreign investment fund,—

“(a) No foreign investment fund income or foreign investment fund loss shall be taken into account in calculating the branch equivalent income or loss of the controlled foreign company; and

“(b) The person in relation to whom the calculation of the attributed foreign income or attributed foreign loss is being made for the relevant accounting period shall be responsible for choosing, under sections 245R to 245RM of this Act, the calculation method (as defined in section 245R) for calculating the foreign investment fund income or foreign investment fund loss of the controlled foreign company with respect to the interest as if the person were the agent of the controlled foreign company; and

“(c) Section 245G (6) of this Act shall apply with respect to such foreign investment fund income or foreign investment fund loss.

To omit from line 17 on page 125 the expression “subsections (1) to (3)”, and substitute the expression “subsections (1), (2), and (3A)”.

Clause 57: To omit from lines 31 to 38 on page 137 the words “, but without limiting the ability of a person to claim, under section 293 of this Act, a credit, against income tax payable in New Zealand in respect of foreign investment fund income in respect of the interest and the period, for the tax paid in respect of any gain derived in respect of the interest in the period, being a gain that would have been income of the person but for this subsection”.

To insert in line 28 on page 138, after the word “Act”, the words “; but nothing in this subsection shall prevent a person from claiming, under section 293 of this Act, a credit, against income tax payable in New Zealand in respect of foreign investment fund income in respect of the interest and the period, for the tax paid in respect of any gain derived in respect of the interest in the period, being a gain that would have been income of the person but for this subsection”.

To insert in line 41 on page 140, after the words “respect to the”, the words “interest and”.

To omit from line 26 on page 141 the words “between a class”, and substitute the words “within a class”.

To omit from line 32 on page 142 the expression “sections 245RG and 245RJ”, and substitute the expression “sections 245J and 245RG”.

To omit from line 37 on page 143 the words “a country”, and substitute the words “the country”.

To omit from line 18 on page 155 the word “fund” in the last place where it appears.

To omit paragraph (c) of section 245RN (1) (all the words in lines 34 to 38 on page 171), and substitute the following paragraph:

“(c) Is liable to pay an amount of income tax in respect of assessable income derived by the person in the income year; and

To omit from line 20 on page 172 the words “The amount”, and substitute the words “An amount”.

To omit from line 21 on page 172 the words “an amount”, and substitute the words “the amount”.

To insert in line 3 on page 173, after the words “made to”, the words “(or dealt with in the interest of or on behalf of)”.

Clause 77: To insert in line 23 on page 220, after the word “month”, the words “preceding the month”.

To reinstate the subsection (3) of section 385 that is shown as struck out on pages 221 and 222 and to renumber as subsections (4), (5), and (6) the subsections (3), (4), and (5) of section 385 that are shown on page 222.

EXPLANATORY NOTE

Clause 3: The proposed amendments omit definitions that are no longer required.

Clause 4: The first of the proposed amendments improves the drafting of the amendment related to dividends payable to associated persons.

The second of the proposed amendments corrects a cross-reference.

Clause 26: The proposed amendments tidyup the new section 106C (which relates to entertainment expenditure). The amendments to *paragraphs (b) and (c) of subsection (6)* make it clear that the \$25 per day limit provided for in those paragraphs is a “per person” limit.

Clause 39: The proposed amendment is a consequential amendment to section 191N(9)(d) of the Income Tax Act 1976.

Clause 45: The proposed amendment corrects two errors in the *new section 222C* (which relates to the taxation of hire purchase agreements).

Clause 53: The proposed amendments tidyup the new section 245GA (which relates to the calculation and attribution of controlled foreign companies repatriations). The omission of *paragraph (e) of section 245GA(9)* is consequential on the omission from the Bill of the *new section 4(18)(h)*.

Clause 56: The first of the proposed amendments inserts a word that was accidentally omitted.

The second of the proposed amendments (which inserts a new *subclause (3A)* into the clause) is intended to clarify the operation of the Act as a result of the introduction of the new FIF regime.

The third of the proposed amendments specifies the operative date of the new *subclause (3A)* and removes a duplication in respect of the operative date of *subclause (3)*.

Clause 57: The first two of the proposed amendments correct an error. Words that were intended to qualify *subsection (6) of the new section 245RB* qualify instead *subsection (4) of that section*. It is accordingly proposed to omit those words from *section 245RB(4)* and to insert an appropriate form of those words into *section 245RB(6)*.

The third of the proposed amendments improves the drafting of the *new section 245RB(12)*.

The fourth of the proposed amendments corrects an error in the *new section 245RC(2)*.

The fifth of the proposed amendments corrects an error in a cross-reference.

The sixth and seventh of the proposed amendments correct errors in *sections 245RC(5)(c)(iv) and 245RG(1A)(b)(i)* respectively.

The remaining amendments improve the drafting of the *new section 245RN(1)*.

Clause 77: The first of the proposed amendments makes *paragraph (b) of the new section 385(1)* consistent with *paragraph (a) of the new section 385(1)*.

The second of the proposed amendments reinstates a subsection of the *new section 385* that was struck out inadvertently.