

HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Tuesday, 13 December 1988

INCOME TAX AMENDMENT BILL (NO. 6)

Proposed Amendments

Hon. T. A. de CLEENE, in Committee, to move the following amendments:

Clause 8: To omit from lines 3 and 4 on page 16 the words "with respect to any tax for which a beneficiary is liable".

To omit lines 10 to 14 on page 16, and substitute the following lines:

the trust during the same income year, and where such distribution is made on or after the 1st day of April 1988, shall not be assessable for income tax.

Clause 11: New Section 226: To omit lines 35 to 38 on page 25.

Clause 25: New Section 245A: To insert, after line 10 on page 63, the following paragraph:

"(c) If, in relation to any foreign currency, paragraph (a) and (b) of this definition do not apply, the rate determined by applying the method specified in paragraph 6 (3) of determination G9 (or any determination issued in substitution therefor) made under section 64E of this Act:

New Section 245K: To insert, after line 7 on page 97, the following proviso:

"Provided further that where the amount of any credit against income tax payable in New Zealand in respect of any attributed foreign income of any person cannot be determined prior to the time at which, pursuant to this Act, the person is required to file that person's return of income for that income year, the Commissioner shall, if requested by that person in writing within 4 years after the end of that income year, upon determination of the amount of the credit, issue such amended assessments or determinations of loss pursuant to section 19 of this Act or determinations pursuant to this section in relation to that income year or subsequent income years as may be required to reflect determination of the amount of the credit."

New section 245R: To omit from line 19 on page 109 the words "with respect to such policies" and to substitute the words: "(but only in that natural person's capacity as issuer of such policies)."

To omit from line 13 of page 113 the word "entity" and insert the words "entity (being in the case of an interest in a foreign personal savings scheme, the foreign superannuation scheme or the foreign entity issuing the policy of life insurance upon human life)".

Clause 26: To omit line 40 on page 129 and lines 1 to 8 on page 130, and substitute the following lines:

wholly or in part, any information which that corporate body is required to disclose—

- “(i) Under section 245w of this Act; or
- “(ii) Under section 231 of this Act; or

Clause 27: To omit lines 30 to 38 on page 130, and substitute the following lines:

wholly or in part, any information which that corporate body is required to disclose—

- “(i) Under section 245w of this Act; or
- “(ii) Under section 231 of this Act; or

Clause 32: New section 4A: To insert after paragraph (1) (after line 25 on page 144) the following paragraph:

- “(m) The market value (calculated as at the date derived) of all consideration derived or deemed to have been derived or received or receivable to the extent to which the consideration has been included by a person, pursuant to section 245r (3) of this Act, in item b of the formula for the calculation of foreign investment fund income.

Clause 8: This amendment provides that distributions, other than beneficiary income, made on or after 1 April 1988 from income accumulated before the 1987/88 income year are not liable to income tax.

Clause 11: The amendment to new section 226 removes the limitation on the application of the provision which excludes a nominee or a nominal settlor from the definition of a settlor.

Clause 25: The amendment to new section 245A permits the conversion of foreign currency to New Zealand dollars where there is no quoted spot exchange rate and no cross rate. In this situation the currency is converted using the method specified in determination G9 issued under the accrual rules.

The amendment to new section 245k provide that where a foreign tax credit in relation to any income year cannot be determined at the time that the taxpayer, files the tax return for that year, the Commission shall, at the request of the taxpayer made within 4 years after the end of that income year, reassess the taxpayer's liability, taking into account the amount of that credit.

The amendments to new section 245r clarify the application of the foreign investment fund regime in cases where the interest in the foreign investment fund constitutes a policy of life insurance or an interest in a foreign superannuation scheme.

Clauses 26 and 27: The amendments ensure that the offences provisions apply in relation to all matters which are required to be disclosed for the purposes of the trust and international tax regimes.

Clause 32: The amendment provides that consideration received from a foreign investment fund does not constitute a dividend. This ensures that these amounts are taxable under the foreign investment fund provisions rather than under the withholding payment provisions.