

House of Representatives
Supplementary Order Paper

Thursday, 29 May 2014

Taxation (Annual Rates, Employee Allowances,
and Remedial Matters) Bill

Proposed amendments

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

Clause 2

Subclause (9): replace “**(19), and (42),**” (line 1 on page 13) with “**(19), and (42), 128(3B),**”.

Subclause (12B): replace “**123B** is” (line 10 on page 13) with “**29B and 123B** are”.

Subclause (13): replace “**and (47)**” (line 11 on page 13) with “**(47), and 80B**”.

New subclause (17B): after *subclause (17)* (after line 24 on page 13), insert:

(17B) **Section 133B** is treated as coming into force on 27 February 2013.

New subclause (23B): after *subclause (23)* (after line 7 on page 14), insert:

(23B) **Sections 123(16B), (30B), and (37B), 123C, and 131(1)** come into force on 1 October 2014.

Subclause (25): replace “**38**” (line 9 on page 14) with “**38, 39BA**”.

Clause 9B(1)

In *new section CC 1C(1)(a)(i)*, replace “an estate or interest” (lines 24 and 25 on page 18) with “a right”.

Clause 12

Delete *new section CE 1E(4)(c)* (lines 26 to 28 on page 26).

After *new section CE 1E(4)* (after line 28 on page 26), insert:

Part-year

(4B) For the purposes of this section, if accommodation is provided for part of an income year, the reference to income year is read as a reference to the relevant part of the income year.

Clause 29(1)

Replace *new section CW 42B(1)*, other than the heading (lines 18 to 29 on page 53) with:

- (1) An amount of income derived by a community housing entity is exempt income.

In *new section CW 42B(2)*, in the words before the paragraphs, replace “company” (line 33 on page 53) with “company (as applicable, the **entity**)”

Replace *new section CW 42B(2)(b)(ii)* (lines 4 to 7 on page 54) with:

- (ii) beneficiaries or clients of the entity:

After *new section CW 42B(2)* (after line 13 on page 54), insert:

Definition: exception

- (2B) Despite **subsection (2)**, **community housing entity** does not include a trust and its trustees, or a company (as applicable, the **entity**) if—
 - (a) less than 85% of the beneficiaries or clients of the entity are, at the time of first becoming beneficiaries or clients, persons, or classes of persons, described in regulations made under **section 225D** of the Tax Administration Act 1994 (the **regulations**):
 - (b) the provision of housing to beneficiaries or clients who, at the time of first becoming beneficiaries or clients, are persons, or classes of persons, described in the regulations (the **regulated people**) is substantially different from the provision of housing to beneficiaries and clients who, at the time of first becoming beneficiaries or clients, are not regulated people.

New clause 29B

After *clause 29* (after line 36 on page 54), insert:

29B Section CW 46 amended (Bodies promoting amateur games and sports)

- (1) In section CW 46, in the words before the paragraphs, replace “or association” with “association, or trustee or trustees of a trust (the **promoter**)”.
- (2) In section CW 46(a), replace “club, society, or association” with “promoter”.
- (3) In section CW 46(c),—
 - (a) replace “club, society, or association” with “promoter”; and
 - (b) replace “shareholder” with “shareholder, beneficiary”.
- (4) In section CW 46, in the list of defined terms, insert “beneficiary” and “trustee”.
- (5) **Subsections (1) to (4)** apply for the 2010–11 and later income years.

New clause 39BA

After *clause 39* (after line 20 on page 63), insert:

39BA Section DB 20B amended (Consideration for agreement to grant, renew, extend, or transfer leasehold estate or licence)

- (1) In section DB 20B(1)(a), replace “a leasehold estate, or a licence” with “a leasehold estate not including a perpetual right of renewal, or is a licence”.
- (2) **Subsection (1)** applies to an amount incurred on or after 1 April 2015.

Clause 47B

Replace *subclause (1)* (lines 15 and 16 on page 68) with:

- (1) Replace section DG 9(3)(a) with:
 - “(a) **expenditure** is the total expenditure or loss that is incurred by the person for an income year in relation to the asset, other than expenditure that is related solely to—
 - “(i) the income-earning use of the asset as described in section DG 7:
 - “(ii) the private use of the asset:
 - “(iii) the capital use of the asset.”

Replace *subclause (2)* (lines 17 to 24 on page 68) with:

- (2) In section DG 9(3)(b), delete “under section CW 8B(3) (Certain amounts derived from use of assets)”.

Delete *subclause (3)* (lines 25 and 26 on page 68).

In *subclause (4)*, replace “**Subsections (1), (2), and (3)**” (line 27 on page 68) with “**Subsections (1) and (2)**”.

Clause 59D

In *subclause (5)(a)(i)*, replace “24” (line 8 on page 80) with “14”.

In *subclause (5)(a)(ii)*, replace “24” (line 10 on page 80) with “14”.

In *subclause (5)(b)*, replace “24” (line 11 on page 80) with “14”.

Clause 64(1)

In *new section EW 15I(1)(b)(iii)*, replace “an agreement for the sale and purchase of property or services” (lines 35 and 36 on page 82) with “a foreign ASAP”.

Clause 65(4)

In *new section EW 32(8)*, replace “**Section EZ 70** (Consideration for property or services: IFRS foreign ASAPs before 2014–15 income year) overrides” (lines 27 and 28 on page 84) with “**Sections EZ 75 and EZ 76** (which relate to some ASAPs before the 2014–15 income year) override”.

Clause 66(1)

In *new section EW 33B(6)*, replace “**Section EZ 70** (Consideration for property or services: IFRS foreign ASAPs before 2014–15 income year) overrides” (lines 32 and 33 on page 86) with “**Sections EZ 75 and EZ 76** (which relate to some ASAPs before the 2014–15 income year) override”.

Clause 75

In *subclause (3)*, replace “**Subsection (1)** applies” (line 34 on page 95) with “**Subsections (1) and (2)** apply”.

New clause 80B

After *clause 80* (after line 30 on page 97), insert:

80B Section EZ 23B amended (Property acquired after depreciable property affected by Canterbury earthquakes)

- (1) In section EZ 23B(5)(b), replace “affected property” with “affected class”.
- (2) In section EZ 23B(5)(c), replace “affected property” with “affected class”.

Clause 82

In the heading to *clause 82*, replace “**EZ 70 and EZ 71**” (line 7 on page 98) with “**EZ 75 and EZ 76**”.

In the heading to *new section EZ 70*, replace “**EZ 70**” (line 9 on page 98) with “**EZ 75**”.

In *new section EZ 70(2)*, replace “**sections 66 and 67**” (line 27 on page 98) with “**sections 65 and 66**”.

In the heading to *new section EZ 71*, replace “**EZ 71**” (line 11 on page 99) with “**EZ 76**”.

Clause 83

In the heading to *clause 83*, replace “**EZ 72**” (line 1 on page 100) with “**EZ 77**”.

In *clause 83*, replace “**section EZ 71**” (line 3 on page 100) with “**EZ 76**”.

In the heading to *new section EZ 72*, replace “**EZ 72**” (line 4 on page 100) with “**EZ 77**”.

Clause 123

New subclause (16B): after *subclause (16)* (after line 14 on page 134), insert:

(16B) Insert, in appropriate alphabetical order:

“**foreign crew of fishing vessels instructions** means the immigration instructions for foreign crew of fishing vessels, certified under section 22(1) of the Immigration Act 2009”.

Subclause (29): in *new definition of non-IFRS designated FX hedge, paragraph (a)*, replace “*and expected*” (lines 5 and 6 on page 136) with “*an expected*”.

New subclause (30B): after subclause (30) (after line 20 on page 136), insert:

(30B) Replace the definition of **non-resident seasonal worker** with:

“**non-resident seasonal worker** means a non-resident person for whom immigration instructions, certified under section 22 of the Immigration Act 2009, allow them to be employed in New Zealand under—

“(a) the recognised seasonal employer (RSE) instructions;
or

“(b) the foreign crew of fishing vessels instructions”.

New subclause (37B): after subclause (37) (after line 37 on page 137), insert:

(37B) Replace the definition of **recognised seasonal employment scheme** with:

“**recognised seasonal employer (RSE) instructions** means the recognised seasonal employer (RSE) instructions, certified under section 22(1) of the Immigration Act 2009”.

New clause 123C

After *clause 123B* (after line 19 on page 140), insert:

123C Section YD 1 amended (Residence of natural persons)

- (1) In section YD 1(11), replace “recognised seasonal employment scheme” with “recognised seasonal employer (RSE) instructions”.
- (2) In section YD 1, in the list of defined terms, replace “recognised seasonal employment scheme” with “recognised seasonal employer (RSE) instructions”.

Clause 128

After *subclause (3)* (after line 34 on page 141), insert:

- (3B) In section 3(1), insert, in the appropriate alphabetical order:
“**non-resident seasonal worker** has the meaning given in section YA 1 of the Income Tax Act 2007”.

Clause 131

After the *clause heading* (after line 2 on page 143), insert:

- (1) In section 33A(1B), delete “employed under the recognised seasonal employment scheme”.

New clause 133B

After *clause 133* (after line 20 on page 143), insert:

133B Section 81A amended (Disclosure of information under approved information sharing agreement)

In section 81A, replace “in force.” with “in force. The information sharing agreement may extend a restricted information

sharing provision in this Act, as contemplated by the Privacy Act 1993, without further authority than this section.”

Clause 159

In *new section 225D(1)*, replace “allowed to be beneficiaries or clients, as the case may be, of community housing entities for the purposes of **section CW 42B(1)(b)**” (lines 20 to 22 on page 153) with “counted as beneficiaries or clients, as the case may be, of entities for the purposes of **section CW 42B(2B)(a)**”.

In *new section 225D(2)(c)*, replace “(for example: geographically isolated increases in living costs)” (lines 32 and 33 on page 153) with “, geographic, household composition, or otherwise”.

Explanatory note

Non-resident fishers

This Supplementary Order Paper (SOP) proposes to extend the current tax treatment of *non-resident seasonal workers* under the *Income Tax Act 2007* to non-resident fishers to whom immigration instructions relating to foreign crew of fishing vessels apply.

Amendments to *clause 2(9) and (23B) of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Bill* (the **Bill**) provide appropriate commencement dates for the provisions.

Amendments to *clause 123(16B), (30B), and (37B)* relate to the defined term *non-resident seasonal worker*.

Clause 123C consequentially amends *section YD 1 of the Income Tax Act 2007* in relation to the residence of natural persons.

Amendments to *clauses 128 and 131* provide for the appropriate tax treatment in the *Tax Administration Act 1994*.

Amateur sports promoters

A *new clause 29B* is proposed to ensure that trusts can take advantage of the amateur sports promoter exemption in the *Income Tax Act 2007*. The proposed change to *clause 2(12B)* ensures an appropriate commencement date for the exemption.

Community housing trusts and companies

Changes proposed to *clause 29(1): new section CW 42B* and *clause 159: new section 225D(1)* allow up to 15% of the beneficiaries or clients of community housing entities to not meet the requirements of relevant regulations.

A proposed change to *clause 159: new section 225D(2)(c)* removes an example and clarifies the ambit of the regulation-making power that delineates the requirements for beneficiaries and clients of community housing trusts and companies

Remedial matters

This SOP proposes to amend *clauses 2(25) and 9B* of the Bill, and to insert a *new clause 39BA*, to ensure the provisions relating to leases of land, and particularly perpetual leases of land, are technically correct.

The SOP proposes to make minor technical amendments to *clause 47B* of the Bill, to ensure the correct functioning of the mixed-use assets rules.

Also, a date is corrected in *clause 59D*.

The SOP proposes to fix a fault in expression in *clause 64(1), new section EW 15I(1)(b)(iii)*.

Amendments proposed for *clauses 65, 66, 82 and 83* correct wrongly re-numbered cross-references.

A drafting cross-reference mistake is corrected in *clause 75*.

A *new clause 80B* is inserted to correct a minor wording defect in the provisions relating to property acquired after a taxpayer's depreciable property was affected by the Canterbury earthquakes. *Clause 2(13)* is amended, to provide an appropriate commencement date for *new clause 80B*.

This SOP also proposes to insert a *new clause 133B*, to remedy *section 81A of the Tax Administration Act 1994*. A cross-reference to the *Privacy Act 1993* was mistakenly omitted from *section 81A of the Tax Administration Act 1994*, and the proposed *new clause 133B* rectifies this, to ensure that *section 81A* operates as originally intended. A *new clause 2(17B)* is inserted, to provide an appropriate commencement date for *new clause 133B*.

This SOP also proposes changes to correct typographic errors in the Bill.

Departmental disclosure statement

Inland Revenue 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=455&>.

Regulatory impact statement

Inland Revenue produced regulatory impact statements on 9 April 2014 and 9 May 2014 to help inform the new policy decisions taken by the Government relating to the contents of this SOP.

Copies of these regulatory impact statements can be found at—

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