Taxation Laws Amendment Bill (No 3) 1989

Date Introduced: 10 May 1989
House: House of Representatives
Presented by: Hon. Peter Morris, M.P. Minister for Industrial Relations

Digest of Bill

Purpose

The Bill will implement a number of amendments, principally to: allow the Commissioner to disclose information to certain enforcement agencies; clarify the treatment of principal places of residence rules for purposes of the capital gains tax; alter the treatment of income from a new group of traditional securities; and extend the tax exempt status of maintenance payments.

Background

The Bill deals with a wide range of divergent issues that have resulted from the introduction of new policies or the clarification of previous policies. As such there is no central background theme and any relevant information will be discussed below.

Main Provisions

Disclosure of Information

The changes in this area will be implemented by Part V of the Bill which will amend the Taxation Administration Act 1953.

Clause 25 contains a number of definitions, the most important being that of 'law enforcement agency': i.e. the Australian Federal Police, State or Territory Police, the Director of Public Prosecutions, the National Crime Authority, the National Companies and Securities Commission, and a State or internal Territory Corporate Affairs Commission.

Proposed section 3E will allow the Commissioner to disclose information to an authorised officer of a law enforcement agency to establish whether a serious crime has been committed or whether a proceeds of crime order should be made. Except for tax related offences or proceedings dealing with a proceeds of crime order, such information is not to be given voluntarily before a court and courts are not to request that such information be provided.
Proposed section 3F provides that the Commissioner may provide any information gained through the Commissioner's official duties to the Comptroller-General of Customs. (Section 16 of the Income Tax Assessment Act 1936 already contains a number of exemptions to the secrecy provisions.)

Principal Place of Residence
Clause 19 will clarify the treatment of places which will be taken to be the principal place of residence, which is exempt from the capital gains tax. Part of the eligibility requirement for this exemption is that the person own a sufficient interest in the place involved. Clause 19 will amend this requirement so that a wider range of interests will qualify for the exemption. For example, a right to occupy premises will now be sufficient. The amendment will be deemed to have operated from the commencement of the capital gains tax, i.e. 20 September 1985.

Traditional Securities
Traditional security is defined in clause 11 to be a security acquired after 10 May 1989 that: does not have an eligible return (i.e. the payments under the security, excluding interest, do not exceed the issue price); has an eligible return that can be calculated but this return does not exceed 1.5% of the amount ascertained by multiplying the payments due under the security (excluding interest) by the number of years of the security; is not a prescribed security; and is not part of the person's trading stock. Income from traditional securities will be taxed under the general rules and will not be subject to the capital gains tax.

Maintenance Payments
Maintenance payments received by a woman from her husband or former husband as periodic payments are exempt so long as the payer has not diverted income that would otherwise be subject to tax directly to the receiver. Clause 9 will amend section 23 to provide that such payments between people who are or were spouses, and those for the benefit of a child of the payer, or a child who was a child of the couple while there were spouses (e.g. step-children) will also be exempt. The requirement against diverting income will continue to apply. The amendments will apply to income derived after 30 June 1988 (clause 20).

The Bill will also remove a number of redundant provisions from the Income Tax Assessment Act 1936.

For further information, if required, contact the Law and Government Group.

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