Income Equalization Deposits Laws Amendment Bill 1989

Date Introduced: 24 May 1989
House: House of Representatives
Presented by: Hon. John Kerin, M.P., Minister for Primary Industries and Energy

Digest of Bill

Purpose
To replace the current income equalization deposits (IED) scheme with one that is tax based.

Background
The IED scheme was introduced in 1976 and aims to allow primary producers to balance their incomes between good and bad years. Since its introduction the scheme has taken two main forms.

The first form operated from 1976 until 1983 and was, like the proposed scheme, tax based. Basically, the scheme allowed primary producers to deposit funds that would be an allowable deduction in the year in which the deposit was made and to withdraw such deposits in a latter year when the deposits would be assessable income. Deposits under the scheme initially were paid interest of 5%. This was increased to 7% in August 1980 and to 9.5% from October 1981. During the period of the operation of the previous scheme a number of problems arose, principally connected with additional benefits becoming available to those using the scheme. One of the major associated advantages resulted from the earning of interest on the amount that would otherwise have been paid as tax (i.e. the taxpayer would be able to defer the payment of tax by depositing funds in the IED scheme and would earn interest on all of those funds. In other cases, tax would be deducted in the year of earning the income and the government would have those funds to invest if it so chose). Another benefit arose from the operation of the general primary producer income averaging scheme. Under this scheme, income was averaged over five years and the rate of tax based on that average rather than on the actual year's income. The IED scheme enabled people to deposit or withdraw funds to best suit their tax position by ensuring the lowest average income. This became more relevant from February 1978 when the averaging scheme operated only if it was to the taxpayer's advantage.
A total revision of the IED scheme was announced in the May Statement of 1983. The new scheme was not linked to the tax system, so that income was fully assessable in the year derived, with deposits in IEDs being paid a rate of interest 2% above the two year Commonwealth bond rate. The scheme operated from 1 September 1983. However, as the Commonwealth bond rate traditionally attracts a lower rate of interest than a number of relatively very safe securities, the attractiveness of IEDs has been diminished. This has led to a drop in the funds being placed in IEDs and has also meant that the scheme is failing to achieve its aim, i.e. encouraging primary producers to place funds aside in good years. This does not mean, however, that primary producers are not saving in good years. The run down in funds in IEDs may reflect only the recent run of years of generally low income for primary producers and the increased attractiveness of other forms of saving.

In the 1988 May Statement, the Treasurer announced that the IED scheme would be returned to a tax linked scheme which is similar to that which operated prior to 1983. However, a number of modifications will be made to remove the associated benefits of the old scheme. It was estimated that the new scheme will cost $20 million in 1989 – 90 and $40 million in following years.

Main Provisions

The Bill will commence from 1 July 1989 (clause 2).

*Loan (Income Equalization Deposits) Act 1976*

The minimum deposit will be $5000 and deposits are to be in multiples of $1000 (clause 5).

Interest, payable at the short term bond rate, will be payable only on the investment component of a deposit (this is defined in clause 3 to be the percentage of the deposit declared by regulation to be the investment component) (clause 6).

Requests for repayment are to be accompanied by a statement of the amount that will be assessable income. The depositor may also request that the percentage that would otherwise be withheld under proposed section 20B (see below) be reduced (proposed section 18).

Where for the year in which a deposit was made, the Commissioner has either assessed the income or states that no tax was payable for that year, the person may withdraw all or part of the deposit without tax being withheld. The request is to be accompanied by a copy of the relevant tax notice. However, if the amount withdrawn becomes an assessable amount (i.e. the amount should have been included in assessable income) the depositor will become liable to additional penalty tax at the rate of 20% per year on the amount that should have been withheld in accordance with proposed section 20B. The penalty will apply from the time of repayment until the assessment for that year (proposed section 18A).
Deposits will become repayable where the depositor has ceased to be a primary producer for 120 days or more (proposed section 19A). Where this has occurred or the deposit becomes repayable due to death or bankruptcy, the depositor may request that the prescribed percentage that would otherwise be withheld be reduced (proposed section 20A).

Proposed section 20B deals with the general withholding of tax from deposits. Authorised persons are to deduct the percentage prescribed in the regulations from the assessable amount. The amount is to be paid to the Commissioner.

Proposed section 20C will allow the authorised person to reduce the percentage deducted when requested to do so under proposed sections 18 and 20A. The authorised person is to have regard to the person's likely tax rate and decisions will be subject to review by the Administrative Appeals Tribunal.

If the depositor understates the amount of assessable income, they will be liable to penalty tax on the difference between the amount that should have been deducted and the actual deduction at the rate of 20% per year (proposed section 20D).

The Commissioner will have power to remit part or all of a penalty (proposed section 20F).

Part 3 of the Bill deals with the transition to the new scheme. In the Part, deposits made under the original scheme (pre - 1983) will generally be treated as though they were made on 1 July 1989 in accordance with the new scheme (clause 23). The Act will continue to apply to deposits made under the second phase of the scheme (i.e. 1983 to 1989) as if these amendments were not made (clause 29) and such deposits will, if not repaid before, be repayable on 30 June 1992 (clause 30).

**Income Tax Assessment Act 1936**

Clause 34 will insert a new section 159GC into this Act. Deposits will generally be an allowable deduction in the year made. However, the deduction will not be allowed in a year where the deposit becomes repayable within 12 months due to financial difficulties, or the taxpayer ceases to be a primary producer, becomes bankrupt or dies. The maximum deduction will be the lesser of the person's primary production income and the amount calculated by subtracting the unrecouped deductions under the first and new schemes from $250 000.

Unrecouped deductions will be taxable when becoming repayable, and where the repayment is due to the taxpayer ceasing primary production, becoming bankrupt or dying, the entire unrecouped deposits will be included in assessable income (clause 35).
Where an assessment is amended, any tax deducted under proposed section 20B is to be used to offset any tax debt and any excess is to be paid to the taxpayer (clause 36).

For further information, if required, contact the Economics and Commerce Group.

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Bills Digest Service
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This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

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