Taxation Laws Amendment Bill (No. 4) 1989

Date Introduced: 31 May 1989  
House: House of Representatives  
Presented by: Hon. Peter Morris, M.P., Minister for Industrial Relations

Digest of Bill

Purpose
To extend the concessions for research and development (R&D) expenditure and remove the 100% deduction for investments in certain Management and Investment Companies (MICs). The Bill will also exempt from income tax pay and allowances of Defence Force personnel serving in Namibia and allow expenses of contesting an election to the Legislative Assembly of the A.C.T. to be tax deductible.

Background
From the late 1960s to the early 1980s Australia experienced a significant decline in the level of R&D performed by private industry. This was in contrast to trends in many OECD countries where industries increased their level of R&D in response to a general downturn in investment. However, in recent years, expenditure on industrial R&D has increased dramatically and was estimated to be $1.25 billion in 1986–87, or more than three times the total (in real terms) of the previous three years. Manufacturing investment in plant and equipment, buildings and structures has also increased, by more than 50% in real terms, since 1984. Growth has occurred across a range of industries, but has been particularly evident in advance technology areas. For example, in biotechnology, the total market capitalisation was more than $500 million in 1987, representing a ten fold increase in less than three years.1

In July 1985 the Government introduced a 150% taxation concession for companies which have incurred expenditure on R&D and satisfied certain conditions. Since its introduction there has been a significant increase in the reported level of R&D. To February 1987, over 2000 companies had registered for the concession. The anticipated expenditure by registered companies on R&D for 1986–87 was approximately $1250 million. Overseas experience in countries which have had tax incentives for R&D suggests that the 150% concession is likely to have a beneficial long term impact on the structure of Australian industry. The concession appears to have encouraged the establishment and growth of a significant number of small companies. For example, of the total number of companies registered for the tax concession, 456 started after June 1985.2
In 1987, the Australian Science and Technology Council's report 'Improving Australia's Competitiveness Through Industrial Research and Development', endorsed the Government's R&D initiatives and recommended that the Government recognise the long-term nature of R&D and give at least 5 year's notice of any changes to the 150% concession for R&D which diminish its value. In its science and technology strategy, tabled in the House of Representatives on 8 May 1989, the Government announced that the 150% concession would be extended for a further two years, to 30 June 1993 (the current concession ends on 30 June 1991), and a reduced concession of 125% would be available for a further two years until 30 June 1995. This move is estimated to cost $200 million for each of the 1992-93 and 1993-94 years and $120 million for each of the next two years.

A 100% tax deduction is allowed to taxpayers for investment in licensed MICs. The purpose of the tax incentive was to promote investment in high technology industries. The deduction is allowed in the income year in which payment for a share is made. To receive the full 100% deduction, shareholders in MICs have to hold onto the shares for four years. If shares are disposed of within two years of purchase, the whole of the deduction is withdrawn; if sold in the third year, 50% is withdrawn; and if sold during the fourth year, 25% is withdrawn. In the 1988 May Economic Statement, the Government announced that from 1 July 1991 the special deduction for investment in MICs would be removed.

Main Provisions
Clause 2 provides that clause 31 will commence on 19 January 1989 and Part 4 of the Bill (clauses 35 - 37) on 25 January 1989.

The regulations may allow for an exemption, from 18 February 1989, for pay and allowances earned by Defence Force employee's serving outside Australia as a result of the Namibian situation (clause 4).

Section 73A of the Income Tax Assessment Act 1936 (the Principal Act), allows a three year depreciation for buildings and plant used only for scientific research. Clause 6 will remove this special rate of depreciation from 30 June 1995.

Clause 7 will make several amendments to the R&D provisions of the Principal Act. The 150% deduction for expenditure on qualifying R&D activities will be available until 30 June 1993, and a deduction of 125% for expenditure incurred from 1 July 1993 to 30 June 1995 will be inserted. The full concession will only be available where a company's R&D expenditure is $50 000 or more, with a lesser deduction, calculated in accordance with the relevant formula contained in the Bill, available where R&D expenditure is less than $50 000. The amendments also provide that the R&D concession will extend to public trading trusts from 1 July 1988 and partnerships of companies from 21 November 1987. Currently, the special deduction is lost if the plant or building is used for another purpose or by an entity other than the company concerned during the year of income. Under the amendments, the deduction will be allowable if the plant or building is used by another person solely for R&D. Where a company receives consideration for use of their plant or building, such as a lease payment, their deduction for R&D expenditure will be reduced by one-half of the consideration.
As section 73B currently stands, the entire deduction is lost if any of the expenditure is recouped from, or provided as a grant by, the Commonwealth, a State, Territory or one of their authorities. Proposed sections 73C and 73D provide that a company that receives a Government grant or recoupment for expenditure on an R&D project will have their deduction reduced by the 'clawback amount'. This is calculated by reference to the amount of the grant and the timing of the expenditure and the grant (clause 8).

Clauses 9 will allow a deduction for expenditure incurred in seeking election to the Legislative Assembly for the Australian Capital Territory. Such a deduction is currently allowed for similar elections.

Clause 11 provides that, from 1 July 1991, money paid for shares in MICs will no longer qualify for the current 100% deduction.

Sections 124ZF - 124ZK of the Principal Act allows the depreciation of capital expenditure incurred on the construction of new buildings, extensions, alterations or improvements made for the purpose of producing assessable income. The rate for work commenced after August 1984 is 4%. Basically, clauses 17 - 22 will extend this depreciation to expenditure on construction, extensions, alterations or improvements, started after 21 November 1987, of buildings used for R&D activities. Deductions will be reduced where a building is used for purposes other than R&D. The allowance will only be available to companies registered under the Industry Research and Development Act 1986.

A new section 160ZSA will be inserted into the Principal Act by clause 24 to allow a taxpayer who grants a long-term lease or sublease of land, after 16 November 1988, to elect to have the transaction treated for capital gains purposes as a disposal of the underlying asset (i.e. the interest in the land to which the lease or sublease relates). Proposed section 160ZSA will operate only where a lease or sublease is granted for more than 50 years on terms that are similar those applying to the owner of the underlying interest.

Clause 36 will amend the First Schedule of the Sales Tax (Exemptions and Classifications) Act 1935 to exempt from sales tax shipping containers used in overseas trade that have a minimum capacity of 14 cubic metres.

References

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

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Bills Digest Service
Legislative Research Service
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