Taxation Laws Amendment Bill (No. 5) 1988

Date Introduced: 3 November 1988
House: House of Representatives
Presented by: Hon. Peter Morris, M.P., Minister Assisting the Treasurer

Digest of Bill

Purpose
The main amendments will remove, from 1991, the exemption from tax that currently applies to the gold industry; reduce the tax benefits associated with investment in films; and provide that sales tax is to be refunded only where the refund will go to the person who paid the tax.

Background
The decision to remove the tax exemption for the gold industry was announced in the 1988 May Statement. Currently, income from the operation of a gold mine is exempt when received by the mine operator if the mine is worked principally to obtain gold, or gold and copper, and gold output makes up at least 40% of mine output.

The main argument in favour of the removal of the exemption is that there is no justification for this industry to be placed in a more advantageous position than other industries, including other mining industries. Another consideration is the revenue foregone. In the May Statement it is estimated that the tax will raise $300 million per year once in full force. However, the industry has expressed concern over the proposal. It is argued that the reduced returns following the introduction of the tax will result in marginal mines being closed and high cost output being reduced. The result, it is argued, will be a decrease in production and a subsequent reduction in exports with an associated effect on the balance of payments. In 1986–87, gold was the fourth largest mineral export, with earnings of $1.75 billion.

A number of concessions to encourage investment in Australian films has been available. Principally, a deduction of 120% (this was previously 150% and 133%) of the amount invested is available and a percentage of the nett return from the film will be exempt (the percentage will depend on the rate of the deduction, with 20% being exempt at the current 120% rate). In the May Statement, the government announced that the favourable treatment would be reduced and that a government-owned Australian Film Finance Corporation would be established to assist funding for Australian films. According to the 1988–89 Budget Papers, $70 million will be available to the Corporation in 1988–89.
Main Provisions

A new Division 16H, titled Termination of Gold Mining Exemptions, will be inserted into the *Income Tax Assessment Act 1936* (the Principal Act) by clause 26. Proposed sections 159GZZG to 159GZZI will amend various provisions of the Principal Act to remove the exemption from tax for gold from 31 December 1990.

Proposed Sub – Division 16H(B) will apply Division 10 of the Principal Act, which contains the general mining provisions such as the deductibility of capital and other expenditure, to gold mining with certain modifications. Proposed section 159GZZK provides that eligible gold mining expenditure (i.e. expenditure incurred before 1 January 1991 that, had the industry been paying tax, would be deductible) may be deducted in 1991 and later years. To determine the amount of the deduction, the eligible expenditure will be written off over 10 years from the date of the expenditure. Proposed section 159GZZL provides for proportional deductions in the 1990 – 91 financial year that will be based on the days between 1 January 1991 and the balancing day.

Under proposed section 159GZZQ, eligible gold exploration and prospecting expenditure (i.e. such expenditure between 26 May 1988 and 1 January 1991) will be deemed to have been incurred on 1 January 1991. This will allow such expenditure to be deducted. However, proposed section 159GZZR will impose a seven year limit on such deductions.

Proposed Sub – Division C will amend Division 10AAA of the Principal Act, which principally deals with the deduction of mineral transport costs, in the same manner as Sub – Division B will amend Division 10.

Division 5 of the Bill will alter the tax concessions available for investment in films. The main changes will reduce the deduction available from 120% to 100% and remove the tax exemption on earnings from such investments. The amendments will apply from 25 May 1988, though there are transitional provisions to preserve the higher rates of deduction where an agreement was entered into, or production began, before that date.

Clause 46 will amend the *Sales Tax Assessment Act (No. 1) 1930* to require that sales tax will be refunded only where the refund goes to the person who actually paid the tax.

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

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