Income Tax Amendment Bill (No. 2) 1988

Date Introduced: 30 November 1988
House: House of Representatives
Presented by: Hon. Peter Morris, M.P., Minister Assisting the Treasurer

Digest of Bill

Purpose
To ensure that both the contributions to and earnings of superannuation funds and Approved Deposit Funds (ADF) will still be taxed even if there is a successful challenge to the legislation imposing the tax on the grounds that it breaches section 55 of the Constitution.

Background
Under section 55 of the Constitution, a law can impose tax on one subject only. It is possible that the scheme to tax superannuation will be challenged on the grounds that it breaches section 55 by imposing tax on both the contributions and other earnings of the funds. If such a challenge is successful, the Income Tax Act 1986 will be taken to impose tax on the earnings, and not the contributions, of the funds. Tax will be imposed on contributions through the Income Tax (Funds Contributions) Bill 1988.

Main Provisions
Clause 3 will insert a new sub-section 5(4) into the Income Tax Act 1986 to make it clear that if there is a successful challenge under section 55, that Act is to be read as imposing tax on the earnings, other than contributions, of the funds.

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

20 January 1989

Bills Digest Service
Legislative Research Service
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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