TRUST RECOUPMENT TAX (CONSEQUENTIAL AMENDMENTS) BILL 1985

Date Introduced: 22 February 1985
House: House of Representatives
Presented by: Hon. P.J. Keating, M.P., Treasurer

Purpose

1. To amend certain Acts as a consequence of the proposed introduction of trust recoupment tax by the Trust Recoupment Tax Assessment Bill 1985.

Main Provisions

2. Part II of the Bill will amend the Administrative Decisions (Judicial Review) Act 1977 to exclude from review under that Act decisions relating to the assessment of trust recoupment tax. However, a trustee or other person dissatisfied with an assessment by the Commissioner will have available full rights of objection and appeal to a Taxation Board of Review or a Supreme Court and ultimately, if the matter warrants it, to the Federal Court or the High Court. Other taxation laws administered by the Commissioner of Taxation that provide similar rights to contest liability are also excluded from review under the Administrative Decisions (Judicial Review) Act.


4. Under the Local Government (Personal Income Tax Sharing) Act funds are allocated to the States by way of financial assistance for local government purposes on the basis of a percentage of net personal income tax collections. As the trust recoupment tax legislation basically seeks to recover personal income tax sought to be avoided, the Local Government (Personal Income Tax Sharing) Act is to be amended to include net collections of trust recoupment tax in the tax sharing base.

5. The amendment proposed to the States (Tax Sharing and Health Grants) Act 1981 by Part IV of the Bill will also include collections of trust recoupment tax in the tax base. This proposal is consistent with the intention, as set out below, of that legislation.
6. In 1981 an understanding was reached with the States that they would receive tax sharing grants calculated by reference to a total tax base rather than the personal income tax base used in previous arrangements. That understanding requires that (as is being done by the amendment) newly introduced Commonwealth taxes be included in the tax base.

7. Part V of the Bill proposes two minor technical amendments to the Taxation Administration Act 1953. The proposed amendments give effect to the intention to adapt and apply the machinery provisions of the income tax law for the purposes of the proposed trust recoupment tax law.

8. Part VI of the Bill will amend the Taxation (Interest on Overpayments) Act 1983. Under that Act interest is paid on amounts refunded to taxpayers following a successful objection or appeal against an assessment or penalty tax imposed by the Commissioner. The payment of interest in these circumstances is consistent with the taxpayer being charged a penalty for late payment of taxation. The amendment being made to that Act will require the Commissioner to pay interest on refunds of trust recoupment tax and penalty tax following a successful objection or appeal against a trust recoupment tax assessment.

For further information, if required, contact:

Economics and Commerce Group
LEGISLATIVE RESEARCH SERVICE

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