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TAXATION LAWS AMENDMENT BILL (NO. 3) 1985

Date introduced: 17 October 1985
House: House of Representatives
Presented by: Hon. Chris Hurford, M.P., Minister Assisting the Treasurer

DIGEST OF BILL

Purpose

To amend taxation legislation in order to give effect to measures announced in the 1985-86 Budget, in the Statement on the Reform of the Taxation System and in earlier statements.

Background

On 19 September 1985, the Treasurer released the Government's package of taxation reform measures following the Tax Summit in July in 1985. This Bill provides for some of those changes. In addition, the 1985-86 Budget also proposed changes to the tax system, and those contained in this Bill are not related to the tax reform package.

Outline

A detailed explanation of the Bill is contained in the Explanatory Memorandum, Parts A and B.

This Bill will provide changes to the following Acts:

1. Income Tax Assessment Act 1936 (ITAA)
   A. Taxation Reform Package
      a) Mining

At present, excess deductions for exploration and development expenditure are not transferable to another company even where the companies satisfy the 100 per cent common ownership test. However, this Bill will allow petroleum and general mining companies to elect to have such
deductions, incurred in 1985-86 and subsequent income years, treated as losses under section 80 of the ITAA. Consequently, such losses will be transferable to another company provided that the companies satisfy the 100 per cent common ownership test (clauses 24, 25, 29, 31 to 35).

b) **Capital Subscribed to Petroleum and Afforestation Companies**

In respect of monies paid after 19 September 1985, the following income tax concessions are to be withdrawn:

- the rebate of 27 cents for each dollar of share capital subscribed to a petroleum prospecting or mining company where the company forgoes the deductions for prospecting or mining exploration;

- the deduction allowable for one-third of the calls paid by companies, certain trustees and non-resident individuals to an afforestation company (clauses 19, 26, 27, 28 and 38).

c) **Prescribed Payments System (PPS)**

As from 1 July 1986, householders who are owner-builders will be liable to make deductions of tax from prescribed payments, rather than merely reporting such payments to the Taxation Office, for domestic building projects whose cost exceeds $10,000 and are commenced on or after 1 July 1986 (clause 40).

d) **Films**

The special income tax concession for investments in the production of Australian films, namely 133% income tax deduction and 33% income tax exemption, is to be reduced to 120% deduction and 20% exemption. These measures are to apply to investment expenditure incurred under a contract entered into after 19 September 1985 (clauses 22, 36, 37 and 41).

B. **Budget Measures**

a) **Livestock Valuation**

Horse breeders will be allowed to elect to write down, under the trading stock provisions applicable to livestock, the cost of stallions at the rate of 50% per annum on a diminishing value basis, and the cost of mares
either at the rate of 33-1/3% per annum on a diminishing value basis or, depending on the mare's age, over a period of three years (clause 23).

b) Commonwealth educational assistance

Payments to students under the Tertiary Education Assistance Scheme and the Adult Secondary Education Assistance Scheme are to be taxable from 1 January 1986. However, any part of the living allowance attributable to dependent children will remain exempt from tax (clauses 21 and 39).

C. Secrecy Provisions

The Bill will amend the secrecy provisions of ITAA to give effect to a proposal announced on 21 May 1985.[1] The proposed amendments will allow a Royal Commission to make taxation-sourced information available to the Director of Public Prosecutions or a special prosecutor, if the Commission considers that the information is relevant to an investigation of a tax-related offence. Furthermore, a Royal Commission will be authorised to supply taxation information to a police officer for the purposes of an investigation by the Commission (clause 20).

2. Taxation Administration Act 1953

The proposed amendments will permit the National Crime Authority to examine, in a private hearing, any director or officer of a company in relation to taxation information concerning the affairs of the company (clause 50).

3. Income Tax (International Agreements) Act 1953

Finnish Tax Agreement

The force of law in Australia will be given to a comprehensive taxation agreement and protocol between Australia and Finland, signed on 12 September 1984 (clauses 44-48). The agreement is largely similar to other comprehensive taxation agreements to which Australia is a party. These agreements are designed to avoid international double taxation and to prevent fiscal evasion.

B. Budget Measures

1. ACT stamp duty and tax will be imposed on transfers of units in unit trusts. Such transfers are to be treated as transfers of marketable security. Consequently, stamp duty and tax will be imposed at rates applicable to marketable security transfers (clauses 3, 4, 6, 7 and 9).

2. The Bill establishes the rules which are to govern liability for the new ACT stamp duty on loan securities to be imposed by the Australian Capital Territory Stamp Duty Amendment Bill 1985 (see Bills Digest No. 85/205). A document will be subject to duty if it is a mortgage, company debenture or a bond or covenant securing a loan and is issued and executed in the ACT by the borrower. A loan security on property in the ACT will be subject to duty. The borrower will be liable to pay the duty (clause 8).

Stamp duty on conveyances of real property

The exemption from stamp duty will be removed in relation to transfers of legal interests under the Real Property Ordinance by way of mortgage where there is an intention that both the legal and equitable interests are being transferred to the mortgagee (clause 5).

5. Validation of regulation-making power

The Federal Court's decision in Amalgamated Television Services Pty Ltd v Australian Broadcasting Tribunal (1984) 54 ALR 57, made it clear that a separate power to make regulations is required for each Act. This Bill provides specific regulation-making powers for certain ACT taxation laws which have been considered to be provided by section 99 of the Australian Capital Territory Taxation (Administration) Act 1969. As from 1 July 1969, the regulation-making power is to be validated for:

- Australian Capital Territory Tax (Insurance Business Act) 1969;
- Australian Capital Territory Tax (Purchases or Marketable Securities) Act 1969; and
Australian Capital Territory Tax (Sales of Marketable Securities) Act 1969

The regulation-making power will also be validated for the Australian Capital Territory Tax (Hire-Purchase) Business Act 1969.

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

Reference
