INCOME TAX ASSESSMENT AMENDMENT BILL (NO. 4) 1984

Date Introduced: 13 September 1984
House: House of Representatives
Presented by: Hon. Chris Hurford, M.P., Minister Assisting the Treasurer

Short Digest of Bill

Purpose

To give effect to Budget and other proposals in relation to:

- transfer of losses within company groups;
- depreciation allowances for non-residential income-producing buildings;
- investment allowance;
- mineral exploration and prospecting expenditure;
- zone rebates;
- dependent spouse rebate;
- pensioner rebates;
- social security beneficiary rebates;
- provisional tax;
- fencing tax concession for disease control;
- gifts;
- taxation concessions for Australian trading ships;
- substitution of semi-government securities.

Outline

This Bill will come into operation on the date of Royal Assent (clause 2). For a detailed explanation of the provisions of the Bill, refer to the Explanatory Memorandum.
1. Transfer of losses within company groups

Under sections 80 and 80AAA (film loss) of the Income Tax Assessment Act 1936 (ITAA) a company, like any other taxpayer, is entitled to carry forward losses incurred in a particular year of income against its assessable income in any of the next succeeding seven years or indefinitely in the case of primary production losses (section 80AA). These provisions also apply to companies within a group of companies simply because the ITAA does not provide for a group of companies with common ownership to be assessed as a single entity.

In the 1982-83 Budget Speech, the then Treasurer announced that the Government proposed to introduce measures which would allow losses by one company in a group to be offset against profits of others in the group where there is effectively 100 per cent common ownership of the companies. This procedure had been recommended by both Asprey (1975)[1] and Campbell Committees (1981).[2]

In the Statement on "Unfinished Taxation Business of the Former Government" dated 30 March 1983, the Minister for Finance announced that the Government would investigate further the revenue and other implications of transferring losses within company groups. The Treasurer, in his 1984-85 Budget Speech, indicated that the Government would introduce legislation which would allow the transfer of losses within company groups.

Clause 13 of this Bill inserts section 80G into ITAA to allow a group of Australian companies with 100 per cent common ownership to offset a loss, in 1984-85 and later years, of one resident company within the group against the taxable income of other resident companies in the group. Certain rules will apply to the transferable loss, namely:

a) The common ownership test must be satisfied throughout the year of loss, year of transfer and intervening years.

b) Where a company that has incurred a loss in a prior year derives assessable income in a year of income, the company will not be entitled to transfer any of the benefit of the loss deduction to another company until it first applies the loss against its own assessable income and any exempt income, in accordance with existing law. Any balance of the loss deduction then remaining may be transferred.
c) A deduction for a loss will only be transferable to a company in a year of income if the transferee company would, but for the operation of new section 80G, have a taxable income in that year. Any loss so transferred will first be offset against any net exempt income of the transferee company and then against assessable income.

d) Where the current year loss provisions (Subdivision B of Division 2A of Part III of ITAA) (anti-avoidance rules) apply to a company in a year of income, any loss incurred by the company in that year will not be transferable to another company in that year. Such a loss will be carried forward and would be available for transfer in future years.

A prior year loss will only be transferable if the loss would otherwise have been deductible from the assessable income of the transferor company of the relevant year following any application of the anti-avoidance prior year loss provisions. The transferee company will also need to meet the normal criteria for deductions under prior year loss provisions.

After these rules have been taken into consideration as well as the further rule that losses are to be transferred in the order in which they are incurred, a loss deduction will be transferable to another company in the year in which it is incurred or, unless it is a loss incurred in carrying on a business of primary production, in any of the next seven years.

Transfer will be effected by the public officers of the respective companies giving written notice to the Taxation Commissioner of the details of the losses to be transferred.

2. Depreciation allowances for non-residential income-producing buildings

The ITAA allows the construction costs of certain short-term traveller accommodation and new non-residential income producing buildings to be written off over 40 years at the rate of 2.5 per cent per annum. This rate applies where construction to relevant traveller accommodation and non-residential buildings commenced after 21 August 1979 and 19 July 1982 respectively.
This Bill will amend the ITAA to allow an annual deduction of 4 per cent of the construction cost of eligible buildings over a 25-year period. This amendment will apply to the construction of eligible buildings, including extensions and alterations, which commenced after 21 August 1984 (clauses 17 and 18).

3. Investment Allowance

Under section 82AB of ITAA, an 18 per cent investment allowance applies to expenditure on property acquired under a contract entered into before 1 July 1985, provided that the property is used or installed ready for use before 1 July 1986. In his 1984-85 Budget Speech the Treasurer announced that the Government proposed to extend the latter date to 1 July 1987. Clause 14 of this Bill amends the ITAA to provide for this time extension.

4. Mineral exploration and prospecting expenditure

Under current law, mineral and prospecting expenditure is deductible only from a taxpayer's mining and associated income. Clauses 15 and 16 will amend sections 122J and 122N(3) of the ITAA to give effect to the 1984-85 Budget proposal that such expenditure will be deductible from a taxpayer's net assessable income derived from any source, provided that the expenditure is incurred after 21 August 1984.

5. Zone Rebates

A zone rebate is a rebate of income tax under section 79A of ITAA to compensate taxpayers who reside for a specified period in unfavourable climatic conditions, isolation or face a high cost of living. The rebate consists of a basic rebate and a dependant component and applies to two zones, zone A and zone B. Furthermore, taxpayers who reside for a specified period in particularly isolated areas in either zone A or zone B are entitled to a higher basic rate.

Clause 11 will amend section 79A of ITAA to increase the basic component of the rebate by 25 per cent with effect from 1 November 1984. The rebate for zone A will be increased from $216 to $270, for zone B from $36 to $45 and for the special areas from $750 to $938. These increases will apply proportionately for the 1984-85 income year.

Furthermore, the boundaries of the special zone areas will be changed from 1 July 1984 in line with the 1981 Census data where this will be of advantage to taxpayers.
Taxpayers who were living within 250km of a population centre of 2,500 or more persons determined on the basis of the 1976 Census data will now be included in the appropriate special zone areas where the 1981 Census data show that the population of that centre has fallen below 2,500 persons.

Clause 12 will amend section 79B of ITAA to provide for a 25 per cent increase in the basic component of rebate (from $216 to $270) available to certain persons serving overseas with a United Nations Armed Force, and to Defence Force members serving in certain overseas areas.

6. Dependent Spouse Rebate

Clause 19 will amend section 159H of ITAA to allow, as from 1 July 1984, a taxpayer in a bona fide de facto relationship and contributing to the maintenance of a de facto spouse to be eligible for the dependent spouse rebate (and not the daughter-housekeeper rebate) on the same basis as if the taxpayer and his or her de facto spouse were legally married. A taxpayer who contributes to the maintenance of the parent of his or her de facto spouse, will become eligible for the dependent parent rebate.

7. Pensioner Rebate

Under section 160AAA, a taxpayer receiving an Australian social security or repatriation pension that is subject to tax in Australia may be entitled to a rebate of tax which is designed to ensure that persons wholly or mainly dependent on such pensions will not have to pay tax. The maximum rebate of $250 shades-out at the rate of 12.5 cents for each dollar by which the taxpayer's taxable income exceeds a specified level.

Clause 23 will amend section 160AAA of ITAA to increase the taxable income level at or below which the maximum pensioner rebate of $250 is available. The income level above which the maximum rebate begins to shade-out is to be increased from $5,429 to $5,533 in 1984-85. The rebate will reduce by 12.5 cents for each dollar of taxable income in excess of $5,533 and will shade-out fully at a taxable income of $7,533 in 1984-85. (The figures will be $5,595 and $7,595, respectively, for subsequent years).

8. Social security beneficiary rebates

Rebates are to be introduced for taxpayers in receipt of Australian social security unemployment, sickness or special benefits during 1984-85 and subsequent years. For (legal or de facto) married taxpayers, the maximum rebate of $75 will shade-out at the rate of 12.5 cents for
each dollar of taxable income in excess of $7,989. For single taxpayers, the maximum rebate of $50 will shade-out at the rate of 12.5 cents for each dollar of taxable income in excess of $4,783. No rebate will be available at taxable incomes in excess of $8,588 for married taxpayers and $5,182 for single taxpayers.

9. Provisional tax

The 1984-85 provisional tax is to be calculated by applying 1984-85 rates of tax and medicare levy to 1983-84 taxable income as increased by 10 per cent. Taxpayers will continue to have the right to "self-assess" (clause 25). Deductions for subscriptions to shares in licensed management and investment companies are to be disregarded for the purposes of the calculation (clause 24).

10. Fencing tax concession for disease control

Under section 75C of ITAA a taxpayer carrying on a business of primary production may claim an outright deduction for fencing certified as necessary for the eradication or control of bovine brucellosis or tuberculosis. This deduction was to cease on 1 July 1984. Clause 8 amends section 75C to extend for a further two years, to 1 July 1986, the date by which expenditure must be incurred for a deduction under this section.

11. Gifts

Clause 9 will amend section 78 of ITAA to authorise income tax deductions for gifts of $2 or more made after 20 March 1984 to the Work Skill Australia Foundation Incorporated or after 21 August 1984 to the Academy of Social Sciences in Australia Incorporated.

Furthermore, the requirement that gifted property must have been purchased by the donor within the twelve months immediately preceding the making of the gift, will be removed for gifts of property listed in the Register of the National Estate to the National Trust of Australia, and gifts of trading stock to an eligible fund, authority or institution where the gift is included in the donor's assessable income. Both of these provisions apply to gifts made after 21 August 1984.

12. Taxation Concessions for Australian trading ships

Section 57AM of ITAA provides for special depreciation allowances for eligible Australian trading ships provided that certain criteria are met. These criteria include the requirement that a ship must not be
manned with a greater complement of officers and crew than that which the Secretary to the Department of Transport has determined (in a manning notice) as the safe and efficient manning level for that ship. The Secretary is required to take into account any relevant industrial relations considerations. Each manning notice must specify the total number of officers and crew members as well as their individual designations.

In a Press Release, dated 2 July 1983, the Minister for Transport announced that the Government would introduce an amendment to ITAA in relation to the special taxation concessions for shipping to improve the efficiency of Australian shipping hence enabling Australian vessels to compete more effectively with overseas shipowners. Clause 7 will introduce an amendment to section 57AM of ITAA to remove the requirement for the Secretary of the Department of Transport to take into account industrial relations considerations and to determine the various designations of officers and crew members in respect of each ship when issuing a manning notice. The amendment will apply to manning notices, or variation of manning notices, given on or after 2 July 1984.

13. Substitution of semi-Government Securities

Clause 6 will insert a new section, section 23K, into ITAA to remove income tax effects that could result from the substitution of securities of semi-government and local government bodies by new securities issued by a State central borrowing authority (CBA) made on or after 8 August 1984. A realisation of the original security will be deemed not to have occurred in specific substitutions, namely those where the substitution was made on a "matched term basis" i.e. where the CBA security has the same maturity date, coupon rate and face value as the security it replaces.

For further information, if required, contact:

Economics and Commerce Group
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LEGISLATIVE RESEARCH SERVICE

References
