Date Introduced: 4 May 1983
House: House of Representatives
Presented by: Hon. J.S. Dawkins, M.P., Minister for Finance

Purpose

To authorise the Commissioner of Taxation to pay interest on certain refunds of tax made as a result of a successful objection or appeal by a taxpayer against an assessment or other decision of the Commissioner.

Background

As part of the former Government's general measures on tax avoidance, the penalty for late payment of tax was increased from 10 per cent per annum to 20 per cent per annum, with effect from 14 February 1983. The Income Tax Assessment Act (No.6) 1982, which came into operation on 13 December 1982, provided for this change, as well as restricting the power of the Commissioner of Taxation to remit that penalty tax to a limited number of cases. Taxes which attract a penalty tax for late payment are income tax (including provisional tax), recoupment tax payable under the Taxation (Unpaid Company Tax) Assessment Act 1982 and the bank account debits tax.

On 30 March 1983, the Minister for Finance, in a press release, stated that the Government would proceed with most of the unfinished taxation legislation of the former Government. Included in the proposed legislation is the current measure whereby the Commissioner of Taxation will pay interest on refunded tax, as recommended by the Asprey Taxation Review Committee.

Outline

This Bill provides for interest, initially calculated at a rate of 14.026 per cent per annum, to be paid on refunds of tax which attract the penalty tax of 20 per cent per annum for late payment. Interest will also be payable where tax is applied, by the Taxation Commissioner,
against another tax liability of the taxpayer, rather than refunded. Interest will accrue on or after 14 February 1983, the commencement date of the penalty tax for late payment. As a result of the Income Tax Assessment Amendment Act (No.6) 1982, taxpayers, who before 13 December 1982, were protected from penalty tax under arrangements to pay one-half of the tax in dispute ("50/50 Rule"), will not be entitled to interest in the event that the one-half paid by them is ultimately refunded. Interest paid on refunded tax will form part of the taxpayer's assessable income in the year of receipt.

Main Provisions

By Clause 2, the Act will be deemed to have come into operation on 14 February 1983. Clause 3 defines a number of terms used in the Bill. Clause 4 provides for the Commissioner of Taxation to be responsible for the general administration of the Act.

Clause 9 outlines the circumstances in which interest becomes payable on overpaid tax. The manner in which the amount of interest is to be calculated is covered by Clause 10. The period for which interest is to be paid is to commence on the latest of the date on which the tax was paid, or the date of the disputed assessment or other decision, or 14 February 1983, and is to end on the date that the overpaid tax is refunded or applied against any other tax liability of the taxpayer. Sub-clause 10(3) will set, initially, the rate of interest at 14.026 per cent per annum and will be varied by regulation. This rate represents the weighted average yield of the longest term Treasury Bonds contracted for in the most recent bond tender, the results of which were announced on 19 April 1983.

By clause 12, there will be no entitlement to interest where, prior to 13 December 1982, the Commissioner of Taxation agreed to remit penalty tax for late payment of income tax under the "50/50 Rule". Clause 13 will allow the Commissioner to apply interest payable against another tax liability.

For further information, if required, contact:

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