Short Digest of Bill

Purpose

To amend the Income Tax (Individuals) Act 1982, excepting tax liability for trustees of non-resident company beneficiaries, pursuant to amendments to the Income Tax Assessment Act 1936.

Background

Income taxation law, for reasons including that section 55 of the Constitution prevents laws imposing taxation from dealing with any other matter, comprises an income tax act to impose liability, a rates act to prescribe tax rates and the Income Tax Assessment Act 1936 dealing with assessment and collection of tax.

In the case of natural persons and trustees generally, liability is imposed by the Income Tax (Individuals) Act 1982 and rates by the Income Tax (Rates) Act 1982. In the case of companies and certain trustees, both liability and rates are provided for by the Income Tax (Companies, Corporate Unit Trusts and Superannuation Funds) Act 1982.

Amendments to the Income Tax Assessment Act set out in the Income Tax Assessment Amendment Bill 1983 would vary the collection of tax from certain non-resident beneficiaries, providing that the trustee be assessed to tax, with the non-resident beneficiary being granted a tax credit for tax paid by the trustee. New subsection 98(4), to be inserted by Clause 8 of that Bill, applies to beneficiaries which are not companies. New subsection 98(3) provides for assessment to tax of the trustee where the beneficiary is a company.

Liability to tax, and rates applicable, are to be provided for by amendment to the Income Tax (Companies, Corporate Unit Trusts and Superannuation Funds) Act 1982.
Drafting changes of this Bill are required to prevent its possible operation in relation to tax under subsection 98(3).

Main Provisions

The Bill would commence with Royal Assent.

Following the assessment to tax of trustees for non-resident company beneficiaries under a new subsection 98(3) to be added to the Income Tax Assessment Act 1936, clause 3 adds a new paragraph 5(2)(d) to the Income Tax (Individuals) Act 1982 to specify that those trustees do not fall within its ambit.

For further information, if required, contact:

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