Date Introduced: 18 May 1983
House: House of Representatives
Presented by: Hon. J.S. Dawkins, M.P., Minister for Finance

Short Digest of Bill

Purpose

To provide that, in cases of bankruptcy, company liquidation, etc., the priority of amounts due under the new scheme for tax payments at source is similar to the priority of PAYE deductions.

Background

In any bankruptcy or company liquidation situation, where total debts exceed moneys available to pay them, an order of priority is legally defined.

At common law, debts due to the Crown have higher priority than debts due to other persons. The position is now modified by the Crown Debts (Priority) Act 1981, which provides that the Crown in right of the Commonwealth is subject to priority provisions in any State or Territory law. Under section 4 of that Act, neither that Act nor the Companies Act 1981 is to affect the operation of sections 221P or 221YU of the Income Tax Assessment Act 1936.

These sections respectively relate to P.A.Y.E. deductions and withholding tax, and provide that debts in payment of these liabilities have priority.

Section 109 of the Bankruptcy Act 1966 provides for the payment of debts by the trustee of the bankrupt's estate. It too is expressed to be subject to sections 221P and 221YU.

The present bill would similarly mention section 221YHJ, relating to payments of tax deducted at source, in both the Crown Debts (Priority) Act 1981 and the Bankruptcy Act 1966, so that debts comprising tax deducted at source but not forwarded to the Commission would have priority over debts to any other creditors.
Main Provisions

By clause 2, the Act would commence with the Income Tax Assessment Amendment Act 1983 which inserts the relevant section 221YHJ in the Income Tax Assessment Act.

Clause 4 adds a reference to "section 221YHJ" in section 109 of the Bankruptcy Act 1966.


For further information, if required, contact:

25 May 1983

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