INCOME TAX (BEARER DEBENTURES) AMENDMENT BILL 1983

Date Introduced: 3 November 1983
House: House of Representatives
Presented by: Hon. P.J. Keating, M.P., Treasurer

Short Digest of Bill

Purpose

To increase the basic rate of tax payable by a company under section 126 of the Income Tax Assessment Act on interest paid on bearer debentures.

Background

Bearer debentures are a special type of debenture whereby the principal and interest are expressed as being payable to the bearer only of the debenture and there is no means by which they could become payable otherwise than to the bearer (s.128A). Such debentures permit the identity of the holder to remain anonymous. It is the distinguishing characteristic of bearer debentures which constitutes a significant incentive to recipients not to declare interest income and this makes them attractive to foreign lenders.

Normally, Australian origin interest income payable overseas is subject to a withholding tax of 10 per cent. However, the withholding tax provisions do not apply, subject to specified conditions, to bearer debentures issued by -

(i) Australian Industry Development Corporation (s.128EA);

(ii) Australian companies and their wholly owned subsidiaries (s.128F);

(iii) private concerns to support Australian ownership and control of businesses (s.128G);

(iv) a company where the name and address of the holder is not disclosed to the Commissioner of Taxation (s.126).
Special provision (s.128N) is made in the Income Tax Assessment Act where the debenture issue does not qualify for a Commissioner of Taxation certificate under sections 128F and 128G for the borrower to be liable for a withholding tax of 10 per cent.

A company coming within exception (iv) above is, however, liable to pay a penalty tax of 55 per cent of the gross amount of the interest payable. If the identity of the person entitled to the interest benefit is registered, then no tax applies.

While the special tax is levied by the Income Tax (Bearer Debentures) Act 1971, it is assessed to the company under section 126 of the Income Tax Assessment Act 1936. The latter provision acts as an anti-avoidance measure.

The Bill increases the rate of tax specified in section 6 of the Income Tax (Bearer Debentures) Act 1971 to 60 per cent. The rate was last increased in 1974 (55 per cent).

Main Provisions

The Bill amends the Income Tax (Bearer Debentures) Act 1971 to raise the rate of Division 11 tax under section 126 to 60 per cent (clause 3), with effect from the date of commencement of the Bill, effectively the 1983-84 year.

For further information, if required, contact:

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