INCOME TAX (ARRANGEMENTS WITH THE STATES) BILL 1978

Date Introduced: 31 May 1978
House: House of Representatives

Short Digest of Bill

Purpose

To implement arrangements which will enable a State if it so chooses, to legislate to levy a surcharge on, or grant (at cost to the State) a rebate of, Commonwealth personal income tax levied on residents of the State.

Background

This Bill will enable the implementation of Stage 2 of the income tax sharing arrangements with the States under the Government's Federalism Policy. Under Stage 1, which commenced in 1976-77, the States receive a specified proportion of net personal income tax collections. Under Stage 2, Stage 1 arrangements will continue, but in addition each State will be able, at its own discretion, to increase or reduce the personal income tax levied on residents of the State.

The Stage 1 arrangements are governed by the States (Personal Income Tax Sharing) Act 1976. An amendment to this Act contained in the States (Personal Income Tax Sharing) Amendment Bill 1978, currently before the Senate, provides for the States' tax share to be $4336.1 million in 1977-78 and their share from 1978-79 onwards to be 39.87 per cent of the preceding year's net personal income tax collections.

Broad principles on which Stage 2 would be based were agreed between Commonwealth and State Governments at Premiers' Conferences in 1976. These are recorded in Budget Document No. 7 (p.15) and this Bill reflects those principles. The Stage 2 arrangements have also been the subject of joint Commonwealth/State Officers' Reports. These reports have not been tabled.

The Income Tax (Arrangements with the States) Bill 1977 was introduced in the Autumn sittings in 1977 but was not proceeded with immediately in order to allow time for consideration and debate. The 1977 Bill subsequently lapsed with the dissolution of Parliament on 10 November 1977. The 1978 Bill is basically the same as the 1977 Bill.
Stage 2 arrangements have met with mixed reactions by State Premiers. At the April 1977 Premiers' Conference it was agreed by the Premiers of Western Australia and Victoria that officers of those States would co-operate with Commonwealth officers in preparing Stage 2 legislation. However, the Premier of Victoria (Mr. Hamer) was recently quoted as having said there was "no chance" of the tax being introduced in that State. (The Age 18 April 1978). The Premier of Western Australia (Sir Charles Court) has consistently supported the new arrangements whilst the Premier of N.S.W. (Mr. Wran) has unequivocally opposed them. Other State Premiers have expressed some reluctance and have complained that because of cut-backs in specific purpose payments to the States, the Commonwealth is attempting to force the States into Stage 2 (e.g. Hobart Mercury 7 April 1978, South Australian Government 1977-78 Budget Speech).

This Bill does not introduce either State taxes or rebates; it only enables the Commissioner of Taxation to administer a tax or rebate on behalf of a State (and in conjunction with his administration of Commonwealth income tax laws) if it chooses to introduce one. If a State does wish to become a "participating" State, then the State will introduce its own legislation imposing the surcharge (or rebate) and that legislation will have to meet certain criteria set out in Part II of this Bill.

Main Provisions

The Bill is in five parts.

Part I is devoted to definitional and other formal provisions.

Part II as noted, sets out criteria that State tax and rebate laws must meet if they are to be administered by the Commissioner of Taxation. These criteria, which are outlined on page 2 of the Explanatory Memorandum, are basically designed to preserve the uniformity of the Australian income tax laws and also facilitate collection of the tax at minimum inconvenience to taxpayers and employers, e.g. a State is to express its tax (or rebate) simply as a percentage of the Commonwealth income tax payable (clause 7(1)(a), (e) and (j)). A State has, also, to require that appropriate P.A.Y.E. deductions be made from employees resident in the State (clause 10).

Another of the criteria in Part II obliges a State choosing to impose a tax to legislate, in "support" of other States, to require employers in border areas in the State to make P.A.Y.E. deductions applicable under the law of another State in which the employee concerned is resident (clause 15 and sub-clauses 10(3), 10(4) and 10(7)). This is required because where residents of a State imposing a surcharge are paid from and working in another State, there are limitations on the extent to which legislation of one State may impose P.A.Y.E. obligations on employers in another State.
Therefore if tax collection arrangements were to be made on the basis of legislation introduced only in the surcharging State, then there would be a gap in the coverage of P.A.Y.E. arrangements and opportunities for tax evasion. (If all States pass "supporting" legislation, whether or not they wish to use Stage 2 arrangements, this gap will be closed).

Parts III and IV of the Bill contain technical and machinery amendments to the Income Tax Assessment Act and other Commonwealth Acts. They are designed mainly to enable the Commissioner of Taxation to carry out administration of State tax and rebate laws alongside his basic function of administration of the Income Tax Assessment Act.

Part V deals with a number of miscellaneous matters. These include:

1. provision for the amounts collected by the Commissioner of Taxation in respect of taxpayers' liabilities to State tax to be paid periodically to each State (clause 79);
2. provision for the payment of equalisation assistance to the four less populous States. This assistance will compensate these States for their lower tax raising capacity. Equalisation assistance is to be assessed by the Grants Commission and the Commission is to base its assessment of the amount payable on the amount necessary to bring the per capita yield from a personal income tax levied by the particular State up to the average per capita amount which would be yielded if New South Wales and Victoria levied a tax on the same basis (sub-clause 79(5)).

Notes on each clause of the Bill are contained in the Explanatory Memorandum.

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