INCOME TAX (NON-RESIDENT COMPANIES) BILL 1978

Date Introduced: 8 June 1978

House: House of Representatives

Presented by: Hon. J. Howard, M.P., Treasurer

Short Digest of Bill

Purpose

To impose a tax, at the rate of 5% on the taxable income of non-resident companies.

Background

Under existing taxation law, foreign companies which conduct their operations in Australia through a subsidiary company which is incorporated in Australia pay, on top of the standard company tax, a dividend withholding tax on dividends remitted overseas. The basic rate of the withholding tax is 30%, reducible to 15% where the shareholder is resident in a country with which Australia has a comprehensive double tax agreement.

However, where a foreign company group conducts its Australian operations through a branch of a company that is incorporated overseas, the taxable income of that branch is again subject to standard company tax of 46%, but remittances of branch profits to head offices and dividends paid to foreign shareholders do not attract additional Australian tax.

This "anomaly" in the taxation legislation - which was critically discussed in the Taxation Review Committee's Report of January 1975 - was dramatically evidenced when, in the first 9 months of 1977, Utah Development Corporation remitted overseas some $130 million in dividends, but did not have to pay any withholding tax.

On 4 November 1977, the Minister Assisting the Treasurer, Hon. R.I. Viner, announced in the House, the Government's intention to "correct the lack of balance" by introducing a branch profits tax based on the Australian taxable income of non-resident companies. This Bill formally imposes that tax.

Related Legislation

The details of how and when the branch profits tax will be
applied are provided for in the Income Tax Assessment Amendment Bill (No. 2), also introduced into the House on 8 June 1978 (see Bills Digest). The present Bill formally declares the rate of the tax.

The Income Tax (Rates) Amendment Bill 1978 and the Income Tax (Companies and Superannuation Funds) Amendment Bill 1978, also both introduced on 8 June 1978, are also related to the present Bill in that they contain purely technical amendments necessitated by the introduction of the branch profits tax (see relevant Bills Digests).

Provisions

Clause 6 of the Bill sets the branch profits tax at the rate of 5%.

Finance, Industries, Trade and Development Group

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LEGISLATIVE RESEARCH SERVICE