2002-2003

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

TAXATION LAWS AMENDMENT BILL (No. 4) 2003

SUPPLEMENTARY EXPLANATORY MEMORANDUM

(Amendments to be Moved on Behalf of the Government)

(Circulated by authority of the Treasurer, the Hon Peter Costello, MP)
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The following abbreviations and acronyms are used throughout this supplementary explanatory memorandum.

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<th>Abbreviation</th>
<th>Definition</th>
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<tr>
<td>ITAA 1936</td>
<td><em>Income Tax Assessment Act 1936</em></td>
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<tr>
<td>ITAA 1997</td>
<td><em>Income Tax Assessment Act 1997</em></td>
</tr>
</tbody>
</table>
General outline and financial impact

Non-assessable non-exempt income

The amendments to Schedule 3 to the Taxation Laws Amendment Bill (No. 4) 2003 will correct references in the income tax law to a provision that is being split into 2 by the non-assessable non-exempt income measure.

Date of effect: One of the substantive amendments will apply to distributions that are made, or flow indirectly, after 30 June 2002. The other 2 substantive amendments will apply to assessments for the income year including 1 January 2003.

Proposal announced: The amendments have not previously been announced.

Financial impact: Nil.

Compliance cost impact: Nil.
Chapter 1
Non-assessable non-exempt income

Outline of chapter

1.1 This chapter explains amendments to correct references to a provision, made necessary because the non-assessable non-exempt income measure will split the provision they refer to into 2.

Context of amendments

1.2 The non-assessable non-exempt income measure aims to standardise the way the income tax law describes and treats amounts of income that are neither assessable income nor exempt income. Such amounts are neither subject to income tax nor reduce tax losses.

Explanation of amendments

1.3 The New Business Tax System (Consolidation and Other Measures) Bill (No. 2) 2002 and Taxation Laws Amendment Bill (No. 6) 2002 propose provisions that refer to section 320-35 of the ITAA 1997.

1.4 That section lists amounts that are exempt income of life insurance companies. The non-assessable non-exempt income measure will split section 320-35 into 2, one dealing with the amounts that stay exempt income, the other dealing with those that will become non-assessable non-exempt income (see item 126 in Schedule 3 to the bill).

1.5 Therefore, the references to section 320-35 in the provisions proposed in those bills will be incorrect if the non-assessable non-exempt income measure is enacted. The amendments correct those references. Table 1.1 identifies the incorrect reference and how the amendments will change it. [Amendments 4 to 6, items 46A, 70A and 128A]
Table 1.1: References corrected by the amendments

<table>
<thead>
<tr>
<th>Amendment No.</th>
<th>New item</th>
<th>Provision amended</th>
<th>Incorrect reference</th>
<th>Correct reference</th>
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<tr>
<td>4</td>
<td>46A</td>
<td>177EA(15)(b) of the ITAA 1936, in item 11 of Schedule 29 to the New Business Tax System (Consolidation and Other Measures) Bill No. 3 2002</td>
<td>320-35(1)(b)</td>
<td>320-37(1)(a)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>320-35(1)(f)(ii)</td>
<td>320-37(1)(d)</td>
</tr>
<tr>
<td>5</td>
<td>70A</td>
<td>15-60(3)(b) of the ITAA 1997, in item 10 of Schedule 3 to Taxation Laws Amendment Bill (No. 6) 2002</td>
<td>320-35(1)(f)</td>
<td>320-37(1)(d)</td>
</tr>
<tr>
<td>6</td>
<td>128A</td>
<td>320-112(3)(b) of the ITAA 1997, in item 5 of Schedule 3 to Taxation Laws Amendment Bill (No. 6) 2002</td>
<td>320-35(1)(f)</td>
<td>320-37(1)(d)</td>
</tr>
</tbody>
</table>

1.6 References to ‘exempt income’ in paragraphs 15-60(3)(b) and 320-112(3)(b) of the ITAA 1997 will be changed to ‘non-assessable non-exempt income’ because the amounts those provisions cover will now be in that category. [Amendments 5 and 6, items 70A and 128A, paragraphs 15-60(3)(b) and 320-112(3)(b) of the ITAA 1997]

Application and transitional provisions

Application

1.7 Item 46A, added by amendment 4, will apply to distributions that are made, or flow indirectly, after 30 June 2002, which is the time from which the provision they amend applies. [Amendment 7, subitem 140(7)]

1.8 Items 70A and 128A, added by amendments 5 and 6, will apply to assessments for the income year including 1 January 2003, which is the time from which the provisions they amend apply. [Amendment 7, subitem 140(8)]

1.9 Before the start of the 2003-2004 income year, a special application provision will treat references in paragraphs 15-60(3)(b) and
Non-assessable non-exempt income

320-112(3)(b) of the ITAA 1997 to an amount being ‘non-assessable non-exempt income’ as if they were references to the amount being neither assessable income nor exempt income. This is necessary because, in some cases, the amendments will apply before the term ‘non-assessable non-exempt income’ appears in the law at the start of the 2003-2004 year.

[Amendment 8, subitem 141(2)]

Commencement

1.10 Because the provisions being amended are only proposed and not yet law, the amendments will commence only after the provisions being amended have commenced [amendments 1 to 3, clause 2, items 5A, 8A and 12A in the table]. The insertion of those commencement provisions requires splitting some of the bill’s existing commencement provisions [amendments 2 and 3, clause 2, items 8, 8B, 12 and 12B in the table].