



ANALYSIS

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1995, No. 72

An Act to amend the Tax Administration Act 1994

[12 December 1995]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title—This Act may be cited as the Tax Administration Amendment Act (No. 2) 1995, and shall be read together with and deemed part of the Tax Administration Act 1994 (hereinafter referred to as the principal Act).

2. Determinations in relation to apportionment of interest costs—(1) The principal Act is amended by inserting, after section 90, the following section—

“90A. (1) For the purposes of Part FG of the Income Tax Act 1994, the Commissioner may determine the extent (if any) to which a financial arrangement provides funds to the issuer.

“(2) Any determination made under subsection (1) shall be binding on persons for the purposes of Part FG of the Income Tax Act 1994.

“(3) Any taxpayer may apply to the Commissioner to exercise the Commissioner’s discretion to make a determination under subsection (1), and every such application shall be made in accordance with such procedure as may be prescribed by regulations made under this Act; or, if no such regulations have been made or the regulations do not provide

for the eventuality that occurs, in accordance with such procedure as may be prescribed by the Commissioner.

“(4) Where the taxpayer is dissatisfied with the determination, the taxpayer may object to the determination by delivering or posting to the Commissioner, within one month after the date on which notice of the determination has been published by the Commissioner, a written notice of objection stating shortly the grounds of that taxpayer’s objection.

“(5) Except where it is otherwise expressly provided, Part VIII, except section 125, shall in relation to any objection to a determination under this section, apply in the same manner and to the same extent as if the objection were an objection made under section 126 (1) or, in the case of a late objection, section 126 (2).

“(6) Where the Commissioner is satisfied that a determination made under subsection (1) should be varied or rescinded, or restricted or extended in scope, the Commissioner may make a fresh determination which shall be effective to vary, rescind, restrict, or extend the determination first mentioned in this subsection:

“Provided that no such fresh determination shall be required to be applied by any person until the first income year which commences after the notification of, or publication of, that fresh determination.

“(7) All determinations made by the Commissioner under subsection (1) shall be published in the *Gazette* within 30 days of the making of the determination, in such form as may be specified by regulations made under this Act.

“(8) For the purposes of this section, a determination shall be deemed to be made when it is signed by the Commissioner.

“(9) Where a person applies a determination, the Commissioner shall assess the person in accordance with the determination made under subsection (1) except where—

“(a) Since the date of the determination the legislation on which the determination was based has been repealed or amended to the detriment of the person relying on the determination; or

“(b) There was a material misrepresentation or omission in the application for the determination, whether intentional or not.”

(2) This section applies with respect to the tax on income derived in the 1996–97 income year and subsequent years.

3. Commissioner to make private rulings on request—

(1) Section 91E of the principal Act is amended by inserting, after subsection (4), the following subsection:

“(4A) Subsection (4) (a) shall not apply where the application for the ruling relates to how section FB 2 or section GD 13 of the Income Tax Act 1994 applies to a particular person and a particular arrangement.”

(2) This section applies with respect to the tax on income derived in the 1996–97 income year and subsequent years.

4. Commissioner to make assessments, determinations of loss, and other determinations—

(1) Section 92 of the principal Act is amended—

(a) By omitting from subsection (2) (a) the words “and section GC 1 of the Income Tax Act 1994”:

(b) By repealing subsection (3) (d):

(c) By omitting from subsection (5) the words “and section GC 1 of the Income Tax Act 1994”.

(2) This section applies with respect to the tax on income derived in the 1996–97 income year and subsequent years.

This Act is administered in the Inland Revenue Department.
