

House of Representatives

Supplementary Order Paper

Wednesday, 20 February 2019

Taxation (Annual Rates for 2018-19, Modernising Tax Administration, and Remedial Matters) Bill

Proposed amendments

Hon Stuart Nash, in Committee, to move the following amendments:

Clause 2

In *subclause (10)*, replace “**181**” (page 21, line 1) with “ **125B, 181**”.

In *subclause (12)*, replace “**133BA**” (page 21, line 6) with “**118B, 133BA, 133FB**”.

After *subclause (12)* (page 21, after line 7), insert:

(12BA) **Section 218(1C)** comes into force on 10 April 2016.

In *subclause (21)*, replace “**and 225C(1)**” (page 21, line 29) with “**225C(1), and 258B**”.

In *subclause (22)*, replace “**(52)**” (page 21, line 34) with “**(52), (57B)**”.

In *subclause (22)*, replace “**(1) and (5)**” (page 21, line 35) with “**(1), (2), (3), and (4)**”.

In *subclause (24)*, replace “**(2), (3), (4),**” (page 22, line 10) with “**(5)**”.

Clause 5

After *subclause (57)* (page 29, after line 8), insert:

(57B) In the definition of **START tax type**, replace paragraph (a) with:

- (aa) income tax:
- (a) GST:
- (ab) WFF tax credits:
- (ac) tax credits under section 41A:

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Clause 15

In *new section 17C(1)*, replace “under **section 17** or provided under **section 17B or 17G**” (page 41, lines 33 and 34) with “under **section 17**, provided under **section 17B or 17G**, or produced under **section 17H**”.

In *new section 17F(6)*, replace “person A” (page 45, line 6) with “person A. A notice or copy of a notice given by the Commissioner to a person in their capacity as an agent for a partnership or as a partner in a partnership is treated as a notice given to every partner in the partnership.”

Clause 29

In *subclause (2)*, replace “section 169B” (page 74, line 27) with “section 124ZG”.

Clause 41

In *subclause (1)*, replace “Part 3, subpart 3A” (page 77, lines 24 and 25) with “**Part 3, subpart 3A**”.

Clause 42

In *subclause (1)*, replace “tax credits” (page 77, line 29) with “tax credits for”.

Clause 52

In *new section 89D(2B)*, replace “**22(2B)**” (page 80, line 28) with “**22I(2B)**”.

Clause 95

In *subclause (2)*, replace “**section 18(1)**” (page 103, line 27) with “**section 18(1)** or discloses revenue information in the circumstances described in **section 18(3)**”.

Clause 96B

In *new section 173L(3)(b)*, replace “after” (page 106, line 23) with “on or after”.

Clause 102B

Replace *new schedule 8, part B, clause 2(1)* (page 111, lines 5 to 19) with:

- (1) An amount of tax does not qualify for a write off under **clause 1(b) and (c)** if the amount is derived by an individual who has been assessed in the tax year as receiving an entitlement and a tax credit under the family scheme under subparts MA to MG and MZ of the Income Tax Act 2007.

New clause 118B

After *clause 118* (page 117, after line 11), insert:

118B Section CD 29C replaced (Transfers to shareholders by ASX-listed Australian company of shares in subsidiary)

- (1) Replace section CD 29C with:

CD 29C Transfers to shareholders by ASX-listed Australian company of shares in subsidiary

A transfer of value is not a dividend to the extent to which it is a transfer of value that is not a dividend under **section ED 2B(7)** (Transfers to shareholders by ASX-listed Australian company of shares in subsidiary).

Defined in this Act: dividend, transfer of value

- (2) **Subsection (1)** applies for the 2016–17 and later income years.

New clause 125B

After *clause 125* (page 122, after line 9), insert:

125B New section CW 52B inserted (Disability support services)

- (1) After section CW 52, insert:

CW 52B Disability support services

Exempt income

- (1) An amount of income derived by or on behalf of a person or their carer is exempt income of the relevant person if the amount is paid by the Ministry of Health or a District Health Board for the purpose of the purchase of disability support services in relation to the person.

Meaning

- (2) In this section, **disability support services** has the meaning given in section 6(1) of the New Zealand Public Health and Disability Act 2000.

Defined in this Act: exempt income, income, pay, person

- (2) **Subsection (1)** applies for the 2015–16 and later income years.

New clause 133FB

After *clause 133F* (page 133, after line 14), insert:

133FB Section ED 2B amended (Transfers to shareholders by ASX-listed Australian company of shares in subsidiary)

- (1) Replace section ED 2B(1)(b) and (c) with:
- (b) shares in a company (the **subsidiary**) that is a member of the same group of companies as the splitting company (the **group**), are issued or transferred (the **share transfer**) to—
- (i) shareholders of the splitting company or of a company that is a member of the group:
- (ii) a member of the group; and

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- (c) the subsidiary is a member of the group immediately before the share transfer; and
- (2) Repeal section ED 2B(2).
- (3) In section ED 2B, in the list of defined terms, insert “group of companies”.
- (4) **Subsections (1), (2), and (3)** apply for the 2016–17 and later income years.

Clause 149

In *new section EW 33D*, in the heading, replace “**combines**” (page 137, line 1) with “**combinations**”.

In *new section EW 33D(1)*, in the words before the paragraphs, replace “combine” (page 137, line 3) with “combination”.

In *new section EW 33D(1)*, in the words before the paragraphs, replace “combine’s” (page 137, line 4) with “combination’s”.

In *new section EW 33D(2)*, in the words before the paragraphs, replace “combine” (page 137, line 20) with “combination”.

In *new section EW 33D(2)*, in the words before the paragraphs, replace “combine’s” (page 137, line 21) with “combination’s”.

Clause 153G

Replace *subclause (1)(b)* (page 141, lines 18 to 20) with:

- (b) after “in the income year”, insert “reduced by the amount of the expenditure for which the dual tax jurisdiction does not allow a deduction against income or equivalent tax relief because the expenditure is not connected with income that is subject to tax under the taxation law of the jurisdiction”.

Clause 153I

In *subclause (1)*, replace “deduction is allowed under section FH 12” (page 141, lines 28 and 29) with “deduction is allowed under section FH 12 when the amount is set off in a tax year against an amount of surplus assessable income”.

Clause 157C

Replace *subclause (1A)* (page 143, lines 34 and 35) with:

- (1A) In section GC 17(a), after “having the greatest long-term senior unsecured debt”, insert “that is not related-party debt or between associated non-residents”.

Clause 177

Replace “169B” (page 156, line 25) with “124ZG”.

Clause 195

In *subclause (1B)*, new section RD 5(6)(bh), replace “within the meaning of section CW 62B (Voluntary activities) that is paid by Fire and Emergency New Zealand to a volunteer, as that term is defined in that section” (page 162, lines 16 to 18) with “that is paid by the Fire and Emergency New Zealand to a volunteer as defined in section CW 62B(4)”.

Clause 211

Replace “**section 169B**” (page 167, line 28) with “section 124ZG”.

Clause 213

In *subclause (22)*, replace “**section 169B**” (page 173, lines 3 and 4) with “section 124ZG”.

Clause 216

After *subclause (1)* (page 176, after line 28), insert:

- (2) In schedule 28, clause 1(b), replace “4(1) to (4), 4(6)” with “4(1), (2), (4), (5), and (6)”.

Clause 218

After *subclause (1B)* (page 177, after line 13), insert:

- (1C) In schedule 32, replace “Partners Relief and Development NZ” with “Circuit International”.

Clause 228

Replace the second clause number “(1)” (page 181, line 28) with “(2)”.

Clause 235B

Delete “who” (page 184, line 20) .

Clause 236

In *subclause (1)*, new clause 4(5), delete “on the grandparented end payment date” (page 185, lines 26 and 27) .

New heading and new clause 258B

After *clause 258* (page 192, after line 38), insert:

Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018

258B Section 35 amended (New subpart FH inserted)

In section 35(3)(a)(i) of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018, replace “a member of the New Zealand banking group of a registered bank” with “a member of the New Zealand banking group of a registered bank, or a person who

has a fixed establishment that is a member of the New Zealand banking group of a registered bank”.

Schedule 1

In *new schedule 8, part B, clause 1(a)*, replace “by an individual who meets the requirements of **section 221B(2)** for the tax year” (page 225, lines 6 and 7) with “by a qualifying individual.”

Replace *new schedule 8, part B, clause 2, other than the heading* (page 225, line 16 to page 226, line 5) with:

- 2 An amount of tax does not qualify for a write off under **clause 1(b)** if the amount is derived by an individual who has been assessed in the tax year as receiving an entitlement and a tax credit under the family scheme under subparts MA to MG and MZ of the Income Tax Act 2007.

Schedule 6

In *the item labelled “Section 110 amended (Commissioner must give notice to employer of end of contributions holiday)”*, delete “in the words before the subparagraphs,” (page 240, line 26).

Explanatory note

This Supplementary Order Paper (SOP) proposes minor remedial amendments to the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Bill. In addition to minor remedial amendments, this SOP also proposes:

- Income derived for the purposes of the purchase of disability support services is exempt income:
- Group companies are included in the ASX-listed companies demerger dividend exemption.

Proposed amendments to *clause 2* provide appropriate commencement dates for the relevant proposed changes.

An amendment to *clause 5* is proposed to accommodate 3 new tax types in the *section 183C* use of money interest START regime.

An amendment to *clauses 15, new section 17C(1)* is proposed, to correct a cross-reference error.

An amendment to *clauses 15, new section 17F(6)* is proposed, to provide certainty of notice in relation to partnerships in some limited circumstances.

Amendments to *clauses 29, 41, 52, 177, 211, 213, 216, and schedule 6* are proposed, to correct cross-reference errors.

Amendments to *clauses 42, 95, 96B, 149, 235B, and 236* are proposed, to correct minor faults of expression.

An amendment is proposed to *new clause 102B*, and its equivalent in *new schedule 8, part B*, to clarify the class of persons to whom the write off rules apply and to correct a cross reference error.

New clause 118B replaces *section CD 29C*, to ensure that no dividend arises in relation to *section ED 2B* ASX-listed company demergers.

New clause 125B inserts a new *section CW 52B*, to ensure that income derived for the purposes of the purchase of disability support services is exempt income.

New clause 133FB proposes amendments to *section ED 2B*, to ensure that no dividend arises in relation to ASX-listed company demergers, including where shares are transferred in relation to other wholly-owned group companies as the relevant headline ASX-listed company, as well as where shareholdings are retained within the group.

Amendments to *clause 149* are proposed, to correct a minor fault of expression.

Amendments to *clauses 153G, 153I, 157C*, and a *new heading and new clause 258B* are proposed, to make minor remedial corrections to international tax provisions related to BEPS.

An amendment to *clause 195* clarifies the application of *sections RD 5 and CW 62B* to Fire and Emergency New Zealand volunteers.

New clause 218(1C) corrects a name in *schedule 32*.

An amendment to *clause 228* corrects a numbering error.

New clause 258B ensures that *section 35 of the Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018* has the correct ambit in relation to New Zealand banking groups, as a matter of technical correction.

An amendment to *schedule 6* corrects a faulty amending formula.

Departmental disclosure statement

Inland Revenue is required to prepare a disclosure statement to assist with the scrutiny of this SOP. The disclosure statement provides access to information about any material policy changes to the Bill and identifies any new significant or unusual legislative features of the Bill as amended.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=sop&subtype=government&year=2019&no=188&>

Regulatory impact assessment

Inland Revenue has not produced any regulatory impact assessments in relation to the contents of this SOP.