

House of Representatives

Supplementary Order Paper

Tuesday, 16 June 2020

Taxation (Annual Rates for 2020-21, Feasibility Expenditure, and Remedial Matters) Bill

Proposed amendments

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

Clause 2

In *clause 2(17)* (page 6, line 19), replace “**79**,” with “**79, 84(1B)**,”.

In *clause 2(20)* (page 6, line 24), replace “**84**” with “**84(1) and (1C)**”.

Clause 67

Insert after *clause 67(4)* (page 37, after line 5):

- (5) Replace the definition of **tax law**, paragraph (a), with:
 - (a) a provision of an Inland Revenue Act other than the Unclaimed Money Act 1971, or an Act that such an Inland Revenue Act replaces:

New clause 83B

Insert after *clause 83* (page 39, after line 27):

83B Schedule 1 amended (Inland Revenue Acts)

In schedule 1, after “Taxation Review Authorities Act 1994”, insert “Unclaimed Money Act 1971”.

Clause 84

Insert after *clause 84(1)* (page 40, after line 6):

- (1B) In schedule 8, part B, clause 1(a), replace “\$50” with “\$200”.
- (1C) In schedule 8, part B, clause 1(a), replace “\$200” with “\$50”.

Insert after *clause 84(2)* (page 40, after line 7):

- (3) **Subsection (1B)** applies for the 2019–20 income year.
- (4) **Subsection (1C)** applies for the 2020–21 and later income years.

New heading and clauses 100B to 100L

Insert after *clause 100* (page 44, after line 35):

Unclaimed Money Act 1971

100B Unclaimed Money Act 1971

Sections 100C to 100L amend the Unclaimed Money Act 1971.

100C Section 2 amended (Interpretation)

- (1) In section 2, insert in appropriate alphabetical order:

document means—

- (a) a thing that is used to hold, in or on the thing and in any form, items of information:
- (b) an item of information held in or on a thing referred to in **paragraph (a)**:
- (c) a device associated with a thing referred to in **paragraph (a)** and required for the expression, in any form, of an item of information held in or on the thing

- (2) In section 2, insert in appropriate alphabetical order:

mutual association means a body or association of persons, whether incorporated or not, which enters into transactions of a mutual character with its members, whether or not it also enters into transactions with other persons

100D Section 4 replaced (Unclaimed money)

Section 4 is replaced by:

4 Meaning of unclaimed money

- (1) **Unclaimed money** means an amount held in New Zealand that—
- (a) is payable by a person who is a holder under section 5 to the person who is entitled to the amount; and
 - (b) meets the requirements of **subsection (2) or (5)**.
- (2) An amount meets the requirements of this subsection if—
- (a) the obligation of the holder to pay the amount to the owner arises under an agreement, arrangement, or situation described in **subsection (3)**; and

- (b) the amount is not excluded from meeting the requirements of this subsection by **subsection (4)**; and
 - (c) for a payment that is due on a fixed date,—
 - (i) the owner fails to request payment of the amount by a date that is 5 years from the fixed date, or by an earlier date that is acceptable to the Commissioner; and
 - (ii) the owner and holder do not agree on terms that include a date for payment of the amount that is later than the fixed date; and
 - (d) for a payment that becomes due when the owner requests payment, or that is due on a fixed date if the owner near that date requests repayment but by agreement is otherwise due on a later date, the owner fails to provide instructions to the holder, or to request information from the holder, relating to the amount held by the holder—
 - (i) for a period of 5 years; or
 - (ii) for a period of less than 5 years that is acceptable to the Commissioner; and
 - (e) the amount payable to an individual owner exceeds \$100 or, if that amount is less than \$100, the Commissioner agrees to accept the amount as unclaimed money.
- (3) For the purposes of **subsection (2)**, an amount payable by a holder to an owner may be unclaimed money if the obligation arises under one or more of—
- (a) an agreement that the owner will lend an amount to the holder, whether or not bearing interest, that is repayable on demand or after a fixed term, which may be renewable:
 - (b) a policy of life assurance that matures—
 - (i) otherwise than by death; or
 - (ii) by death, in which case the due date for payment is treated for the purposes of **subsection (1)** as being the date on which the holder first has reason to suppose that the death has occurred:
 - (c) an agreement under which the owner pays an amount to the holder and is entitled to payment at a later date of an equal or greater amount where the equal or greater amount is calculated under the agreement using a method that is analogous to the calculation of principal and interest for a loan by the owner to the holder of an amount equal to the amount paid by the owner:

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- (d) an agreement, arrangement, or situation that gives rise to an obligation under law or equity of the holder to make a payment to the owner.
- (4) An amount payable by a holder to an owner does not meet the requirements of **subsection (2)** if the amount is payable—
 - (a) as a dividend by the holder as a company to the owner as a shareholder, unless the payment is made by the holder as a mutual association in relation to money deposited with the holder by the owner as a member;
 - (b) as a rebate by the holder as a mutual association to the owner as a member in relation to the trading transactions of the member with the association, unless the payment is made in relation to money deposited with the holder by the owner;
 - (c) as a benefit from a pension fund or superannuation fund.
- (5) An amount meets the requirements of this subsection if—
 - (a) the amount is payable to an owner by a holder who ceases to carry on business, or by the personal representative of a holder who dies; and
 - (b) the obligation of the holder to make the payment arises from the holder's business; and
 - (c) the amount is held by the holder or the personal representative of the holder after a period of 6 months from the cessation or death; and
 - (d) the amount would meet the requirements of **subsection (2)** in the absence of **subsection (4)** if the holder or the personal representative of the holder were to hold the amount for a sufficient period; and
 - (e) the holder or the personal representative of the holder chooses to pay the amount to the Commissioner and satisfies the requirements of **subsections (6) and (7)**.
- (6) A holder must make reasonable efforts to locate the owner of an amount that is, or may become, unclaimed money and to communicate with the owner concerning the amount.
- (7) A holder of an amount must provide to the Commissioner, with or before the payment of the amount and in a form acceptable to the Commissioner, the information in the possession or control of the holder that relates to the owner and the amount, including—
 - (a) the source, and history of the accrual, of the amount;
 - (b) the identity and whereabouts of the owner;
 - (c) the source of the owner's entitlement to payment of the amount;

- (d) the actions of the holder in attempting to locate and communicate with the owner concerning the amount.

100E Section 5 amended (Holder)

- (1) In section 5(2)(b),—
 - (a) replace “subsection (3) of section 4” with “**section 4(5)**”;
 - (b) replace “subsection (2) of that section” with “**section 4(4)**”.
- (2) After section 5(2), insert:
- (3) A department or Office of Parliament or Crown entity, as defined in the Public Finance Act 1989, or an organisation or company listed in Schedule 4 or 4A of that Act, is excluded from being a holder under this Act.

100F Sections 6 and 7 repealed

Repeal sections 6 and 7 (which relate to a register of unclaimed money kept by a holder).

100G Section 8 amended (Payment of unclaimed money to Commissioner)

- (1) Replace section 8(1) with:
 - (1) A holder of an amount of unclaimed money under **section 4(2)** must, within 3 months from the date on which the amount becomes unclaimed money,—
 - (a) meet the requirements of **section 4(6) and (7)** for the amount; and
 - (b) pay the amount to the Commissioner; and
 - (c) provide to the Commissioner, with the payment, the information that is required by **section 4(7)**.
 - (2) **Subsection (1)** applies for an amount that, under **section 4** as amended by this Act, becomes unclaimed money after the date on which this Act receives the Royal assent.
 - (3) **Subsection (1)** applies for a holder and amount that meet the requirements of **subsection (4)**, except that the date by which the amount is required to be paid to the Commissioner as unclaimed money is the date that is 2 years after the date on which this Act receives the Royal assent.
 - (4) A holder and an amount meet the requirements of this section if—
 - (a) the holder and the amount do not meet the requirements under section 4, as they were immediately before the amendments made by this Act, for the amount to become unclaimed

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money on or before the date on which this Act receives the Royal assent; and

- (b) the holder and the amount would have met the requirements under **section 4**, as amended by this Act, for the amount to become unclaimed money on or before the date on which this Act receives the Royal assent; and
- (c) the amount is not paid to the Commissioner as unclaimed money on or before the date on which this Act receives the Royal assent.

100H Section 9 amended (Special arrangements may be made by Commissioner)

In section 9, delete “section 6, section 7, or”.

100I Section 10 amended (Examination of accounts)

- (1) In section 10(1),—
 - (a) replace “register kept by a holder pursuant to section 6” with “records”;
 - (b) replace “to money” with “to an amount”;
 - (c) replace “such money” with “the amount”;
 - (d) delete the second sentence.
- (2) In section 10(3), replace “to money” with “to an amount”.

100J Section 11 amended (Commissioner may make payment to claimant)

- (1) In section 11(1),—
 - (a) words before paragraph (a), replace “any money” with “an amount”;
 - (b) words after paragraph (b), replace “the money” with “the amount”.
- (2) In section 11(2), replace “money paid” with “amounts paid”.
- (3) In section 11(4),—
 - (a) replace “any money” with “an amount”;
 - (b) replace “the money” with “the amount”.
- (4) In section 11(5),—
 - (a) replace “the amount of any money” with “an amount”;
 - (b) replace “the amount of any money payment of which is made” with “an amount which is paid”.
- (5) After section 11(5), insert:

- (6) No person shall have a right of action against the Commissioner for the investment or non-investment of an amount of unclaimed money held by the Commissioner.
- (7) No person shall have a right of action against the Commissioner for an amount of unclaimed money held by the Commissioner for a period of more than 60 years.

100K Section 13 amended (Offences)

In section 13(a), delete “section 6, section 7,”.

100L Schedule repealed

Repeal the Schedule.

Explanatory note

This Supplementary Order Paper proposes amendments to the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Bill.

Unclaimed money generally refers to money which has been abandoned by its owner. A common example is a bank deposit which has remained untouched in an account for a period of years. Under the Unclaimed Money Act 1971, an amount which is left for either 6 or 25 years (depending on the product category) will become “unclaimed money” (UCM) within the meaning of the Act.

However, the Act has not been reviewed since its enactment in 1971. As a result, many of the processes within the Act reflect the administrative practice of the 1970s and do not take advantage of new developments in technology. The UCM regime is largely administered as a stand-alone product using a paper-based process.

Inland Revenue’s Business Transformation (BT) programme provides an opportunity to review the administration of the UCM regime and to modernise its administration. This would reduce compliance costs for holders of UCM. The objectives of the proposals are to:

- modernise and update the Act to take advantage of new administrative practice;
- reduce compliance costs for holders and owners of UCM;
- reduce administrative costs for IR; and
- increase the likelihood of owners of UCM being reunited with their money (and more rapidly than is presently the case).

This Supplementary Order Paper also provides for a temporary increase to the individual income tax write-off threshold for automatically calculated assessments which is designed to assist taxpayers as part of the Government’s response to the COVID-19 situation.

Departmental disclosure statement

The Inland Revenue Department is required to prepare a disclosure statement to assist with the scrutiny of this Supplementary Order Paper. 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=bill&subtype=government&year=2020&no=510>

Regulatory impact assessment

The Inland Revenue Department produced a regulatory impact assessment on 24 April 2020 to help inform the new policy decisions taken by the Government relating to the changes to the unclaimed money regime made by the contents of this SOP.

A copy of this regulatory impact assessment can be found at—

- <https://taxpolicy.ird.govt.nz/publications/type/regulatory-impact-assessment>
- <https://treasury.govt.nz/publications/legislation/regulatory-impact-assessments>