The Bill will alter the law relating to the taxation of:

Deferred interest and discounted securities;
Interest withholding tax;
the Formal Training Allowance;
gifts to the Pearl Watson Foundation; and
certain employment termination payments.

The proposal to amend the law relating to deferred interest and discounted securities was announced by the Treasurer in a Press Release dated 16 December 1984. Basically, deferred interest securities are those where interest is paid on the maturity of the security rather than at regular intervals. Discounted securities achieve the same result as they are sold below their face value and redeemed at face value on maturity. As the law presently stands, the interest received is taxed only at maturity and this results in a deferral of tax which both assists the investor and reduces yearly tax revenue. In his Press Release, the Treasurer announced that the measures to be implemented by this Bill would apply to securities issued after 16 December 1984.
In relation to withholding tax, the Treasurer announced amendments designed to close a loophole on 14 December 1984. In short, the loophole worked as follows: an overseas investor would buy a discounted security from a resident and not be paid interest. If the security was held until maturity, the amount gained on redemption (i.e. the difference between the face value and the discount value) would be subject to withholding tax. However, by selling the security to a resident close to maturity, the investor can escape liability if the sale occurred overseas. The resident who purchased the security will be taxed on redemption but only on the difference between what they paid and the face value. As the security was sold close to maturity this amount will be much less than the original difference between the discounted and face values.

The Formal Training Allowance is part of the Government's Priority One scheme and is designed to improve education and training opportunities for young people. The Allowance includes a living component part of which, if received under other Social Security schemes would not be taxable. To put people receiving the Allowance in the same category as other benefit receives, certain components of the Allowance will be exempted from tax.

On 11 March 1986 the Treasurer announced that the law relating to the rebate for certain termination payments would be amended to remove an anomaly that limits the rebate for certain taxpayers.

Main Provisions

For a detailed analysis of the clauses of the Bill refer to the Explanatory Memorandum.

Income Tax Assessment Act 1936

This Act will be amended by Part II of the Bill (clauses 3 to 30).

Clause 5 will amend section 23 of the Act to make payments under the Formal Training Allowance scheme tax exempt to the extent that they relate to dependant children, residing in a remote area or rent assistance. The amendment will apply for the 1985/86 and subsequent years (clause 30).

Clause 7 will amend section 78 of the Act to make donations to the Pearl Watson Foundation tax deductible.
Clauses 12 to 15 deal with withholding tax. Proposed section 128AA will deem the difference between the transfer price and the issue price to be income. Proposed section 128AB will allow the Commissioner to issue certificates that will detail the issue price of certain securities (clause 12).

Clause 14 will insert a new section 128NA into the Act. The new section will deem withholding tax to be avoided in certain circumstances, such as where the transferor is not liable to tax. In such circumstances the transferee will be liable to tax as imposed by the Income Tax (Securities and Agreements) (Withholding Tax Recoupment) Bill 1986.

A new Division 16E will be inserted into the Act by clause 16 and will deal with deferred securities. Proposed section 159GQ contains the formulas for calculating the amount that is to be included as income in each year of a deferred securities term. This is particularly relevant for variable return securities. Proposed section 159GR will allow for adjustments where the income calculated under proposed section 159GQ for a variable return qualifying security (i.e. a security issued after 16 December 1984 that will or is likely to exceed one year and the sum of payments (other than interest) will exceed the issue price) differs from any actual payment. Likewise, proposed section 159GS will provide for adjustments for any profit or loss on the transfer of qualifying securities.

Proposed section 159GT will allow the issuer of a qualifying security to claim a deduction equal to the amount that would be calculated under proposed section 159GQ if the qualifying security was issued to the taxpayer (issuer). The deduction will only be allowed if the taxpayer would be entitled to a deduction under section 51 of the Act. The proposed section will apply to all qualifying securities issued on or before 22 May 1986 and for qualifying securities issued in Australia after 22 May 1986 other than a negotiable instrument issued payable to bearer.

Proposed section 159GV will allow adjustments to be made where the terms of a security are varied.

The new Division will not apply to non-residents (proposed section 159GW) or to qualifying securities that are held as trading stock (proposed section 159GY).
Where a security has two or more payment rights and such a right is transferred, the separate income rights will be treated as separate securities (proposed section 159GZ). The amendments will apply from 17 December 1984 (clause 30).

Section 160AA of the Act will be amended by clause 17 to correct the anomaly that has restricted the availability of the termination payment rebates in certain cases. The amendment will apply from 1 July 1984 (clause 30).

Clause 28 will insert a new section 265B into the Act. The new section will enable security holders to request a Notice from the issuer. The Notice is to state whether the security is a qualifying security and, if so, must list a number of items such as the consideration for which it was issued and if there has been any partial redemption. The Notices will be used to determine what amount is interest when the security is transferred (clause 21).

The remaining amendments to this Act are largely consequential on the above amendments.

Taxation Administration Act 1953

The interpretation provisions of the Act will be amended as a consequence of the above amendments. The new sub-sections will deem certain statements in regard to securities (particularly as regards Notices) to be statements made in regard to taxation law (clause 32).

Taxation Laws Amendment Act (No. 4) 1985

This Act will be amended by clauses 33 to 40 largely to correct a formality in the name of the Veterans Entitlement Act 1986 which is referred to as a 1985 Act in this Act.
For further information, if required, contact the Economics and Commerce Group.

7 August 1986

Bills Digest Service
LEGISLATIVE RESEARCH SERVICE

© Commonwealth of Australia 1986

Except to the extent of the uses permitted under the Copyright Act 1968, no part of this publication may be reproduced or transmitted in any form or by any means, including information storage and retrieval system, without the prior written consent of the Department of the Parliamentary Library. Reproduction is permitted by Members of the Parliament of the Commonwealth in the course of their official duties.