DIGEST OF BILL

Purpose

The major amendments to be introduced by this Bill will:

. deal with the valuation of livestock compulsorily destroyed under the bovine brucellosis or tuberculosis eradication campaigns;

. deal with the value of horses acquired through natural increase and the writing-off of breeding stock;

. make deductible payments under a petroleum cash bidding scheme;

. remove the exemption from interest withholding tax for certain loans by government bodies;

. exempt the pay of members of the Defence Force Reserves from tax;

. provide for the payment of provisional tax in 1986-87; and

. introduce a double taxation treaty with Austria and to modify the agreement with the Netherlands.

Background

The changes to the taxation of rural products to be implemented by this Bill were originally announced in the Statement on Economic and Rural Policy delivered by the
Minister for Primary Industry on 15 April 1986. In that Statement, it was proposed that the valuation of natural increase would apply to sheep, cattle and pigs as well as horses and that the new system would operate from 1 July 1986. However, on 2 July 1986 the Treasurer announced that the implementation of the scheme would be delayed due to practical problems. In the 1986-87 Budget it was announced that the new scheme would only apply to horses and that other natural increases would continue under the present scheme (i.e. the value of the increase is generally taken to be the prescribed amount and the majority of tax is deferred until disposal).

The changes to the treatment of certain public sector borrowings for interest withholding tax purposes were announced by the Treasurer on 1 July 1986. According to that statement, the exemptions for widely-spread securities, borrowings by Federal and State authorities and rollovers and extensions of certain loans that were exempt before June 1983, were to be removed. However, on 28 July 1986 the Treasurer announced that the exemption relating to widely-spread securities would be retained to allow Australian inventors to fully use European and American money markets where widely-spread securities are commonly used.

The amendments to the double taxation agreement with the Netherlands are contained in Schedule 1 of the Bill and the agreement was signed on 30 June 1986. Similarly, the agreement with Austria is contained in Schedule 2 of the Bill and was signed on 8 July 1986. The agreements are in line with other double taxation agreements signed with a number of countries, including Japan, Canada, France, Germany, Korea, New Zealand, Singapore, Switzerland, the United Kingdom and the United States of America.

Outline

The majority of the major amendments to be implemented by this Bill are contained in Parts VII and VIII, which amend the Income Tax Assessment Act 1936 and the Income Tax (International Agreements) Act 1953 respectively, and the Schedules to the Bill which contain the international agreements. The majority of the other parts of the Bill will amend various taxation Acts to change references to Supreme Courts, which were inserted by the Taxation Boards of Review (Transfer of Jurisdiction) Act 1986, to references to any court. This will clarify some
doubts concerning the onus of proof in appeals to the Federal or High Courts and make it clear that the onus rests with the objecting taxpayer.

Main Provisions

Part VII of the Bill (clauses 14 to 34) will amend the Income Tax Assessment Act 1936 (the Principal Act).

Clause 15 will amend section 23 of the Principal Act which, amongst other items, exempts 50% of the pay and allowances received by member of the Defence Forces reserve and emergency reserves. As a result of the amendments, all such pay and allowances will now be tax exempt. This provision will apply from 1 January 1987 (sub-clause 34(1)).

Section 32 of the Principal Act will be amended by clause 16 so that horses acquired under contracts entered into after 19 August 1986 will not be subject to the writing off provisions for breeding until the are three years old.

Clause 17 will amend section 34 of the Principal Act to introduce new provisions for the value of horses gained through natural increase and to clarify the rules relating to all natural increases. Sub-section 34(1) will be amended to make it clear that the relevant prescribed cost will be the lowest amount that can be taken as the value of any natural increase. This amendment will apply from 30 June 1984, the date the higher prescribed costs came into effect (sub-clause 34(2)). Paragraph 17(b) will introduce the new provisions dealing with horses. Where a service fee, greater than the prescribed cost, is paid, the value of the foal will be that service fee. Where the taxpayer incurs an outgoing for a number of inseminations (including artificial inseminations) and natural increase occurs, the Commissioner will be able to treat only part of the total outgoings as the foals' value. The new provisions will apply to fees incurred after 19 August 1986.

Clause 18 will amend section 36AAA of the Principal Act to introduce an alternative method to take into account stock destroyed due to bovine brucellosis or bovine tuberculosis. Basically, the taxpayer will be able to elect to have the replacement cost reduced on a herd, rather than per head, basis and will be able to use the reduction for ten, rather than five, years. The actual consideration paid for replacement animals will be reduced by either (a) the reduced profit (i.e. the profit on death less any amount
already taken into account for other replacements or natural increase) divided by the number of replacements or (b) the actual cost of the replacements, whichever is the lesser.

Section 124AA of the Principal Act, which lists certain allowable capital expenditure that is deductible, will be amended to include capital expenditure under proposed section 124ABA (clause 22).

A new section 124ABA will be inserted into the Principal Act by clause 24. Under the proposed section, a taxpayer with a qualifying interest will be deemed to have incurred capital expenditure equal to the amount bid under a petroleum cash bidding scheme and this will be able to be written off over ten years. In general, a taxpayer will be taken to have a qualifying interest if they were the successful bidder or have purchased an interest in the lease and lodged a notice with the Commissioner. These amendments will be deemed to operate from 15 January 1986 (sub-clause 34(5)).

Section 128EA of the Principal Act will be amended to remove the exemption from interest withholding tax for interest on loans entered into by the Australian Industry Development Corporation before 20 May 1983 and rolled-over or drawn down after that date (clause 25).

The exemption from interest withholding tax available on interest paid on certain widely-issued debentures by Australian companies will be extended to the States and State and Commonwealth authorities (clause 26 which will amend section 128F of the Principal Act).

Clause 27 will amend section 128G of the Principal Act to make it clear that interest paid on loans raised before 20 May 1983 will not be exempt where such loans are rolled-over, drawn down or extended.

The exemption for interest on loans raised by the States and Commonwealth and State authorities where such funds are not used to compete directly with a non-government enterprise will be removed for interest paid after this Bill receives the Royal Assent on loans entered into after 1 July 1986 or, for loans entered into before that date, where there is no obligation to draw on such loans before 2 July 1986 or where such a loan is rolled-over or extended after 1 July 1986 (clause 28 which will amend section 128GA of the Principal Act).
Clause 32 deals with provisional tax for 1986-87 where the taxpayer chooses not to self-center. Generally, the 1985-86 income will be increased by 11% and will be taxed at the rates specified in the Income Tax Rates Act 1986 and the Medicare Levy will be at the rate referred to in the Medicare Levy Act 1986.

Clause 37 will insert a new section 11AA into the Income Tax (International Agreements) Act 1953 (the Act) to give force to the amendments to the agreement with the Netherlands contained in Schedule 1 of the Bill. The amendments will allow both countries to tax interest income that is secured by a mortgage on real property in the other country. For mortgages entered into before 30 June 1986 the amendments will apply from the 1988 income year while for mortgages entered after that date the amendments will apply from the 1986 income year.

A new section 11R will be inserted into the Act by clause 38 and will incorporate the agreement with Austria which appears as Schedule 2 of this Bill. The agreement covers individuals and companies and deals with Australian and Austrian income taxes. The anti-double taxation provisions are largely dealt with by Article 23 and, from Australia's point of view, are based on the foreign tax credits scheme. A number of the other Articles deal with specific forms of income and their taxation. For example, international airline profits are generally only to be taxed in the country of residence of the operator (Article 8).

For further information, if required, contact the Economics and Commerce Group.

8 October 1986

Bills Digest Service
LEGISLATIVE RESEARCH SERVICE

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

© 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.