

House of Representatives
Supplementary Order Paper

Tuesday, 15 November 2005

Taxation (Annual Rates and Urgent Measures) Bill

Proposed amendments

Hon Dr Michael Cullen, in Committee, to move the following:

New clause 4B

To insert after clause 4 (page 2, after line 17), the following:

4B New sections CV 3 and CV 4

After section CV 2, the following is added:

“CV 3 Australian wine producer rebate

An amount of Australian wine producer rebate derived by a New Zealand resident wine producer is income of the wine producer.

“CV 4 Regulations: Australian wine producer rebate

“Order in Council

“(1) For the purpose of enabling the Commissioner to administer the entitlement of New Zealand resident wine producers to Australian wine producer rebates in respect of wine produced in New Zealand, the Governor-General may from time to time, by Order in Council, make regulations relating to—

“(a) the claim by a New Zealand resident wine producer for payment of an Australian wine producer rebate in respect of wine produced in New Zealand that is sold in Australia:

“(b) the approval or verification of the entitlement of a New Zealand resident wine producer to a payment of an Australian wine producer rebate:

“(c) any matter necessary to give effect to a provision relating to Australian wine producer rebates in the agreement for the time being in force between the Government of New Zealand and the Government of Australia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

“Force and effect

- “(2) An Order in Council under **subsection (1)**—
- “(a) has force and effect despite any provision in this Act or any other Inland Revenue Act or the Official Information Act 1982 or the Privacy Act 1993:
 - “(b) may come into force on or after 1 July 2005:
 - “(c) may apply for Australian financial years commencing on or after 1 July 2005.

“Definitions

- “(3) In this section,—
- “**Australian financial year** means a year starting on and including 1 July.
- “**wine** has the meaning given in section 31-1 of A New Tax System (Wine Equalisation Tax) Act 1999 (Aust), as amended from time to time, and regulations made under that Act.”

New clause 5B

To insert after clause 5 (page 2, after line 29), the following:

5B Definition

In section OB 1, after the definition of **Australian imputation credit account company**, the following is inserted:

“**Australian wine producer rebate** means a producer rebate (under A New Tax System (Wine Equalisation Tax) Act 1999 (Aust), as amended from time to time, and regulations made under that Act) that relates to wine exported from New Zealand on or after 1 July 2005”.

New Part 4

To insert after Part 3 (page 13, after line 6), the following:

Part 4

Amendments to Tax Administration Act 1994

17 Tax Administration Act 1994

This part amends the Tax Administration Act 1994.

18 Interpretation

In section 3(1), in the definition of **tax**, after paragraph (a), the following is inserted:

“(ab) for the purposes of the application of this Act in relation to a regulation made under **section CV 4** of the Income

Tax Act 2004, includes an Australian wine producer rebate.”.

19 New section 4B inserted

After section 4A, the following is inserted:

“4B Application of Act in relation to Australian wine producer rebate

“(1) This section governs the application of this Act in relation to the rights and obligations of a person under a regulation made under **section CV 4** of the Income Tax Act 2004, which relates to Australian wine producer rebates.

“(2) This Act applies to the rights and obligations as if—

“(a) a person’s claim for approval in respect of an Australian wine producer rebate were an application made by the person to the Commissioner for registration in respect of the administration of a tax imposed by an Inland Revenue Act:

“(b) a person’s claim for a payment of an Australian wine producer rebate were an application by the person to the Commissioner for a refund of a tax imposed by an Inland Revenue Act:

“(c) a decision concerning an entitlement of the person to a payment of an Australian wine producer rebate were a decision by the Federal Commissioner of Taxation for Australia concerning an entitlement of the person to a refund of a tax imposed by the Commonwealth of Australia:

“(d) a payment to the person of an Australian wine producer rebate were a refund by the Federal Commissioner of Taxation for Australia of a tax imposed by the Commonwealth of Australia.”

20 New section 85J inserted

After section 85I, the following is inserted:

“85J Disclosure of information for administration of Australian wine producer rebate

“(1) The purpose of this section is to facilitate the exchange of information between the Commissioner and the Australian Taxation Office and the New Zealand Customs Service for the purpose of administering the entitlements of New Zealand resident wine producers to Australian wine producer rebates.

“(2) For the purposes of **subsection (1)**, the Commissioner may at any time provide all information referred to in **subsection (3)** to a person who is—

“(a) an officer, employee, or agent of the Australian Taxation Office or the New Zealand Customs Service; and

- “(b) authorised to receive the information by the chief executive officer of the Australian Taxation Office or the New Zealand Customs Service.
- “(3) The information that may be provided under **subsection (2)** is all information relevant to—
- “(a) the claim by a New Zealand resident wine producer for payment of an Australian wine producer rebate in respect of wine produced in New Zealand that is sold in Australia:
- “(b) the approval or verification of the entitlement of a New Zealand resident wine producer to a payment of an Australian wine producer rebate.”

Explanatory note

This Supplementary Order Paper amends the Taxation (Annual Rates and Urgent Measures) Bill, to enable the Inland Revenue Department to tax and assist in the administration of Australian wine producer rebates payable by the Government of Australia to New Zealand wine producers.

Proposed changes to the Income Tax Act 2004 provide that the Australian wine producer rebates are income in New Zealand, and also provide a regulation-making power to enable the Inland Revenue Department to undertake tasks associated with the verification of entitlement of New Zealand claimants to those rebates. The proposed changes to the Income Tax Act 2004 also provide a regulation-making power to give effect to the Double Tax Agreement between New Zealand and Australia in the context of assistance between the two countries' tax administration authorities for the purpose of implementing Australian wine producer rebates in New Zealand.

Proposed changes to the Tax Administration Act 1994 are consequential upon the proposed changes to the Income Tax Act 2004. The proposed changes to the Tax Administration Act 1994 allow the Inland Revenue Department to divulge otherwise secret information to the relevant authorities, for purposes of implementing the Income Tax Act 2004 Australian wine producer rebate provisions.

New *clause 4B* inserts new *sections CV 3 and CV 4* into the *Income Tax Act 2004*, so that a producer rebate is income for a New Zealand wine producer, and the making of Orders in Council is enabled.

New *clause 5B* inserts a definition of *Australian wine producer rebate* into the *Income Tax Act 2004*.

New *Part 4* inserts provisions into the *Tax Administration Act 1994*, so that the Commissioner is authorised to provide the Australian Tax Office and New Zealand Customs Service with information relating to the administration of the producer rebate system.