



## ANALYSIS

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1983, No. 4

## An Act to amend the Income Tax Act 1976

[29 July 1983]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

**1. Short Title**—This Act may be cited as the Income Tax Amendment Act 1983, and shall be read together with and deemed part of the Income Tax Act 1976 (hereinafter referred to as the principal Act).

- 2. Application**—This Act shall apply with respect to—
- (a) Income, being interest, derived from money lent pursuant to a binding contract entered into on or after the 29th day of July 1983:
  - (b) Income derived from or in respect of money lent, being income that consists of a redemption payment made in respect of a commercial bill (as defined in section 65 (1) (a) of the principal Act) issued (within the meaning of the Bills of Exchange Act 1908) on or after the 29th day of July 1983, not being a commercial bill (as so defined) so issued pursuant to a binding contract entered into before that date.

**3. Interpretation**—(1) Section 2 of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

“‘Interest’, in relation to the deriving of income or non-resident withholding income by any person, means every payment (not being a repayment of money lent and not being a redemption payment), whether periodical or not and however described or computed, made to the person by any other person in respect of or in relation to money lent:

“‘Money lent’, in relation to any person, means—

“(a) Any amount of money advanced, deposited, or otherwise let out, whether on current account or otherwise, by the person:

“(b) Any amount of credit given (including the forbearance of any debt), whether on current account or otherwise, by the person:

“(c) Any amount advanced, deposited, or let out, or for which credit is given, by the person pursuant to any obligation or arrangement that is similar to any advancing, depositing, letting out, or giving of credit, of any of the kinds referred to in paragraph (a) or paragraph (b) of this definition:

“(d) Any amount paid to any other person in consideration for an agreement to pay or a promise to pay by the other person, where that amount is exceeded by the amount payable to the person pursuant to the agreement or the promise,—  
whether or not the advancing, depositing, or letting out, or the giving of credit, or the obligation or arrangement, or the agreement to pay or promise to pay, is secured or evidenced by writing; and, for the purposes of paragraph (d) of this definition, the expression ‘other person’, where it last appears in that paragraph, shall include any further person where the other person and the further person are associated persons:

“‘Paid’, in relation to interest and to any redemption payment, being income or non-resident withholding income, derived by any person from money lent by the person, includes distributed, credited, or dealt with in the interest of or on behalf of the person; and, in relation to such interest and to such redemption payment, ‘pay’, ‘payable’, and ‘payment’ have corresponding meanings:

“ ‘Redemption payment’, in relation to any money lent, that money lent being the amount paid to any person on the issue (as defined in section 2 of the Bills of Exchange Act 1908) by him of a commercial bill (as defined in section 65 (1) (a) of this Act), means the amount paid by the person on the redemption of the commercial bill to the extent to which that amount exceeds the money lent.”

(2) Section 309 of the principal Act is hereby amended by inserting, before the definition of the expression “paid”, the following definition:

“ ‘Interest’, in relation to non-resident withholding income, includes a redemption payment.”

(3) Section 61 (20) of the principal Act is hereby consequentially amended by omitting from the proviso the words “(as defined in section 243 (1) of this Act)”.

(4) Section 65 (1) (e) (i) of the principal Act is hereby amended by omitting the words “money lent”, and substituting the words “money that is lent”.

**4. Incomes wholly exempt from tax**—(1) Section 61 of the principal Act is hereby amended by repealing paragraph (18), and substituting the following paragraph:

“(18) Income, being interest or a redemption payment, where that interest or redemption payment is payable out of New Zealand, derived by a person who is not (within the meaning of this Part of this Act) resident in New Zealand from or in respect of—

“(a) Any money lent to the Government of New Zealand; or

“(b) Any money lent to any local or public authority for the purposes of any activity, not being a commercial activity, carried on in New Zealand by that local or public authority, where that income derived from or in respect of that money lent is, pursuant to approval given in that behalf by the Government of New Zealand, to be exempt from income tax.”

(2) Notwithstanding subsection (1) of this section, section 61 (18) (b) of the principal Act, as it was in force immediately before the enactment of this Act, shall, in relation to income from interest which is, pursuant to an agreement or arrangement made with the Government of New Zealand, to be exempt from income tax in New Zealand, continue to apply in any case where the exemption is authorised as a result of an application received by, or posted to, the Government of New Zealand before the 29th day of July 1983.

**5. Items included in assessable income**—(1) Section 65 (2) of the principal Act is hereby amended by inserting, after paragraph (k), the following paragraph:

“(ka) A redemption payment paid to any taxpayer, where that redemption payment is made in respect of any commercial bill—

“(i) Which on its issue (as defined in section 2 of the Bills of Exchange Act 1908) or at any time thereafter is owned by any person who is not resident in New Zealand (not being any such person where that bill is acquired by him in the carrying on by him of any business in New Zealand through a fixed establishment in New Zealand); and

“(ii) Which, at the time at which it is redeemed, is owned by the taxpayer, being a person who is resident in New Zealand, or being a person who is not resident in New Zealand where that bill was acquired by him in the carrying on by him of any business in New Zealand through a fixed establishment in New Zealand:

“Provided that this paragraph shall not apply in relation to any commercial bill that was so issued—

“(iii) By a person who is resident in New Zealand where the money lent in relation to that bill is used by him for the purposes of a business carried on by him outside New Zealand through a fixed establishment outside New Zealand:

“(iv) By a person who is not resident in New Zealand, except where the money lent in relation to that bill is used by him for the purposes of a business carried on by him in New Zealand through a fixed establishment in New Zealand:”.

(2) Section 65 (2) (k) of the principal Act is hereby consequentially amended by inserting, after the words “commercial bill”, the words “(not being a redemption to which paragraph (ka) of this subsection applies)”.

**6. Classes of income deemed to be derived from New Zealand and abroad**—(1) Section 243 (1) of the principal Act (as substituted by section 68 (1) of the Income Tax Amendment Act 1979 and amended by section 3 (4) of the Income Tax Amendment Act 1981) is hereby further amended by repealing the definition of the expression “money lent”.

(2) Section 243 (2) of the principal Act is hereby amended by repealing paragraphs (l) and (m), and substituting the following paragraphs:

- “(l) Income, being interest or a redemption payment, derived from or in respect of money lent in New Zealand:
- “(m) Income, being interest or a redemption payment, derived from or in respect of money lent outside New Zealand to—
- “(i) Any person who is resident in New Zealand, except where the money lent is used by him for the purposes of a business carried on by him outside New Zealand through a fixed establishment outside New Zealand; or
- “(ii) Any person who is not resident in New Zealand if the money lent is used by him for the purposes of a business carried on by him in New Zealand through a fixed establishment in New Zealand:”.

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This Act is administered in the Inland Revenue Department.

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