



## ANALYSIS

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1991, No. 75

**An Act to amend the Income Tax Act 1976**

[31 July 1991]

BE IT ENACTED by the Parliament of New Zealand as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Income Tax Amendment Act (No. 4) 1991, and shall be read together with and deemed part of the Income Tax Act 1976 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of August 1991.

**2. Interpretation—non-resident withholding tax—**

(1) Section 309 (1) of the principal Act (as substituted by section 46 of the Income Tax Amendment Act (No. 5) 1988) is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

“‘Approved issuer’ means at any time a person in respect of whom an approval under section 311B of this Act remains in force:

“‘Registered security’ has the same meaning as in section 86F of the Stamp and Cheque Duties Act 1971.”

(2) Section 309 of the principal Act (as so substituted) is hereby amended by adding the following subsection:

“(3) For the purposes of this Part of this Act, an amount of interest shall be treated as being paid by an approved issuer in respect of a registered security only where that amount is

treated as being so paid under section 86i of the Stamp and Cheque Duties Act 1971.”

**3. Non-resident withholding tax imposed**—(1) Section 311 (1) of the principal Act (as substituted by section 47 of the Income Tax Amendment Act (No. 5) 1988) is hereby amended by inserting, after paragraph (a), the following paragraph:

“(aa) At the rate of zero percent of the gross amount of so much of that income as consists of interest where and to the extent that—

“(i) The person by whom that interest is derived and the person by whom that interest is paid are not associated persons; and

“(ii) The interest is paid by an approved issuer in respect of a registered security.”

(2) Section 311 (1) of the principal Act (as so inserted) is hereby further amended by omitting, from paragraph (b), the words “paragraph (a) of this subsection does not apply”, and substituting the words “neither paragraph (a) nor paragraph (aa) of this subsection applies”.

**4. New sections inserted**—The principal Act is hereby amended by inserting, after section 311, the following sections:

“311A. **Persons who may apply for approval**—Any person to whom money is, has been, or may in future be lent may apply to the Commissioner, in writing and in such form as the Commissioner may approve, for approval of that person as an approved issuer for the purposes of this Part of this Act.

“311B. **Approval of person as approved issuer**—(1) Where the Commissioner has received from any person any duly completed application for approval in accordance with section 311A of this Act, that person shall be deemed to be approved as an approved issuer for the purposes of this Part of this Act from the date upon which the Commissioner received the application, unless the Commissioner gives notice to that person under subsection (2) of this section.

“(2) Where the Commissioner considers that any person who has made an application for approval under section 311A of this Act has, within the period commencing with the later of the 1st day of August 1991 and the date 2 years prior to the date of application, and ending with the date of application, been responsible for serious default or neglect in complying with that person’s obligations under the Inland Revenue Acts, the Commissioner may, by giving notice in writing to the person

within 20 working days after the date of receipt of the application, decline the application for approval.

**“311c. Revocation of approval—**(1) The Commissioner may, at any time, on being satisfied that an approved issuer has, within the period ending with that time and commencing with the later of the 1st day of August 1991 and the date 2 years prior to that time, been responsible for serious default or neglect in complying with the approved issuer’s obligations under the Inland Revenue Acts, revoke the approval given to the approved issuer under section 311B of this Act, and shall notify the issuer in writing accordingly.

“(2) The Commissioner shall, on receipt of a written request in that behalf by an approved issuer, revoke the approval given to that approved issuer under section 311B of this Act, and notify the issuer in writing accordingly.

“(3) Notwithstanding any provision of this Part of this Act, where the Commissioner revokes under subsection (1) or subsection (2) of this section the approval given to an approved issuer, that approved issuer shall be deemed to remain an approved issuer for the purposes of this Part of this Act and for the purposes of Part VIb of the Stamp and Cheque Duties Act 1971 in relation to any payments of interest made after the date of the revocation in respect of money that was lent to the person under a registered security—

“(a) Before the date of the revocation; and

“(b) While the person was an approved issuer.”

**5. Non-resident withholding tax to be final tax in certain cases—**Section 317 of the principal Act is hereby amended by inserting, after the words “non-resident withholding tax”, the words “(including a nil amount non-resident withholding tax, in the case of any non-resident withholding income where and to the extent that section 311 (1) (aa) of this Act applies)”.