

HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Thursday, 2 December 1982

INCOME TAX AMENDMENT BILL (NO. 2)

Proposed Amendment

HON. MR FALLOON, in Committee, to move the following amendment:

Clause 31: To insert, immediately after the new section 188A in subclause (1), the following new section:

“188B. Transitional provisions for payment of income tax arising from application of section 188A—(1) For the purposes of this section—

“‘To conduct’, in relation to a taxpayer and to any specified activity, has the same meaning as in section 188A (1) of this Act:

“‘Specified activity’ means a specified activity within the meaning of the definition of that expression in section 188A (1) of this Act, not being a specified activity within the meaning of paragraph (i) of that definition:

“‘Specified amount of tax’, in relation to the tax payable by any taxpayer on income derived in any transitional year, means an amount of tax equal to the difference between the amount of tax payable by that taxpayer on income derived in that transitional year and the amount of tax that would have been payable if section 188A of this Act had not applied in respect of any loss incurred by him in the conduct in the transitional year of any specified activity, being a specified activity that was conducted by him on the 11th day of October 1982:

“‘Transitional year’ means any of the 3 income years commencing on the 1st day of April 1983, the 1st day of April 1984, and the 1st day of April 1985.

“(2) Notwithstanding anything in this Act but subject to this section, where the taxpayer so elects in accordance with subsection (5) of this section, the specified amount of tax payable by the taxpayer in respect of income derived in any transitional year shall be due and payable in 3 equal instalments, one of each such instalments being due and payable on each of the dates on which the taxpayer is required to pay the tax (if any) on the income derived in each

of the 3 income years next succeeding that transitional year under section 361 or, as the case may be, section 392 of this Act.

“(3) Interest, at the rate of 1.25 percent per month, shall be payable on so much of the amount of any instalment of the specified amount of tax as remains unpaid throughout any complete month in the period commencing on the day after the date on which the specified amount of tax would have been due and payable if it were not for this section, and ending on the date on which it is due and payable under subsection (2) or, as the case may be, subsection (6) of this section.

“(4) Interest payable under subsection (3) of this section shall, subject to subsection (7) of this section, for all purposes other than the calculation of interest be deemed to be income tax and be added to and form part of the instalment to which it relates and be due and payable on the same date as that instalment is due and payable.

“(5) Any taxpayer may, upon application made in writing by him or on his behalf within the time within which he is required to furnish a return of his income for any transitional year, or within such further time as the Commissioner in his discretion may allow in any case or class of cases, elect that this section shall apply in respect of any specified amount of tax due and payable in respect of the income derived by him in that transitional year.

“(6) Notwithstanding anything in subsection (2) of this section, where any taxpayer to whom this section applies—

“(a) Is believed by the Commissioner to be about to discontinue the carrying on of business in New Zealand; or

“(b) Has ceased to carry on business in New Zealand or to derive income; or

“(c) Becomes bankrupt or, being a company, is in the course of being wound up (whether by order of the Court or voluntarily or subject to the supervision of the Court),—

the Commissioner may give notice or amended notice to that taxpayer specifying such earlier date or dates as the Commissioner shall in his discretion determine on which any instalment of the specified amount of tax payable by that taxpayer shall be due and payable:

“Provided that where the cessation of business is caused by the death of the taxpayer, the Commissioner may make such arrangements in respect of the payment of any instalment and the calculation and payment of any interest applicable thereto, having regard to the tenor of this section, as he considers to be fair and reasonable.

“(7) Notwithstanding anything in this Act, interest paid under this section shall, for the purposes of this Act, be deemed to be an amount of expenditure incurred by the taxpayer in the production of his assessable income from the conduct of the specified activity in relation to which the specified amount of tax is calculated.”

EXPLANATORY NOTE

This clause inserts a new section 188b in the principal Act.

The new section provides that any taxpayer who was conducting any specified activity (not being the derivation of rents, fines, premiums, or other revenue from land) on 11 October 1982 may elect to defer payment of the specified amount of the tax payable in respect of income derived in the 1983-84, 1984-85, and 1985-86 income years (referred to as transitional years) that is due to the application of section 188A of the principal Act.

The specified amount of tax for each transitional year so deferred is to be paid by 3 equal instalments due and payable on the dates on which the taxpayer is required to pay tax on income derived in each of the 3 income years next succeeding the transitional year.

Interest is payable on the due date of each deferred instalment at the rate of 1.25 percent for each complete month that the specified amount remains unpaid for the period of the deferment.

Any interest so payable may be deducted in calculating the assessable income derived by the taxpayer from the conduct of the specified activity to which the deferred tax relates.
