

1990-91

THE PARLIAMENT OF THE COMMONWEALTH OF
AUSTRALIA

SENATE

TAXATION LAWS AMENDMENT BILL (No.3) 1991

SUPPLEMENTARY EXPLANATORY MEMORANDUM

(Circulated by the authority of the Treasurer,
the Hon. J. Kerin, M.P)



General Outline and Financial Impact of the Amendments

These proposed amendments will amend the Taxation Laws Amendment Bill (No.3) 1991 to:

- impose a time limit on the Commissioner of Taxation within which he is to determine an objection, where a taxpayer issues a notice requiring the Commissioner to determine the objection.
- make it clear that the only objections that are not reviewable under the Administrative Decisions (Judicial Review) Act are decisions on objections to assessments or calculations of tax, charge or duty

These amendments will have no impact on the revenue.

Summary of proposed amendments

Two amendments to Part 7 of the Bill are to be moved on behalf of the Government. These amendments relate to the imposition of a time limit in relation to the determination of taxation objections and to an amendment to Schedule 1 of the Administrative Decisions (Judicial Review) Act (AD(JR) Act).

Time limit in relation to taxation objections

The effects of the proposed amendments on taxation objections are:

- A time limit will be imposed on the Commissioner within which he is to determine an objection.
- This time limit will only apply if the person gives the Commissioner notice that he is to make a decision on the objection.
- If the Commissioner has not made a decision on the objection within the time specified then he is taken to have

made a decision to disallow the objection. Taxpayers' will then have the usual rights of review of objection decisions.

Schedule 1 of AD(JR) Act

The effect of the proposed amendment of paragraph (ga) of Schedule 1 of the AD(JR) Act is to ensure the continuation of the right to dual avenues of review (ie. appeal to the Federal Court or application for review to the AAT, or review under the AD(JR) Act) in respect of those objection decisions that do not relate to assessments or calculations of tax, charge or duty.

Explanation of the proposed amendments

Time limit on Commissioner to make objection decision

The proposed amendment to Division 3 of Part IVC of the Taxation Administration Act 1953, being inserted by the Bill, will add a new section 14ZYA. This section will enable a person who has lodged a taxation objection, to give the Commissioner a notice requiring him to make a decision on the objection where the Commissioner has not made a decision by the later of;

the end of the period of 60 days after the day on which the taxation objection was lodged with the Commissioner,

the end of the period of 60 days after the day on which the Commissioner decides, under section 14ZX, to agree to accept an objection that was lodged out of time - if he so decides, or

if the Commissioner has requested additional information in relation to the objection, in writing, within 60 days of the lodging of the objection, the end of the period of 60 days after he receives that information.

It is important to note that it is only at the expiration of the 'original 60 day period' that a person is entitled to issue a notice to the Commissioner. [*Subsections 14ZYA(1) and 14ZYA(2)*]

If the Commissioner has not made a decision on the objection within 60 days of receiving a notice under subsection 14ZYA(2), the Commissioner is deemed to have made a decision under

subsection 14ZY(1) to disallow the objection. The Commissioner will then be required to serve a notice of the objection decision on the person under subsection 14ZY(3). [**Subsection 14ZYA(3)**]

Whether a person gives a notice to the Commissioner, after satisfaction of the necessary conditions in subsection 14ZYA(1), is a matter for the person to determine. The time limit and deemed disallowance provisions will only operate where a valid notice is given to the Commissioner.

Consequential amendments

Schedule 4 of the Bill contains amendments to certain Acts as a consequence of the proposed consolidation of taxation objection, review and appeal provisions in the Taxation Administration Act. One of those is an amendment to Schedule 1 of the AD(JR) Act made by paragraph (ga). This provision sought to ensure that objection decisions now made under various taxation laws would, when made under the Principal Act, get the same treatment under the AD(JR) Act as they do now. It has been pointed out that it is possible, in respect of a limited range of objection decisions, that a person may currently have a right to dual avenues of review - that is, under the relevant taxation laws and under the AD(JR) Act. The proposed amendment to paragraph (ga) will ensure the continuation of any right to dual avenues of review that may now exist in respect of objection decisions that do not relate to assessments or calculations of any tax, charge or duty. [**Schedule 4, paragraph (ga) of Schedule 1 of AD(JR) Act**]