

1993

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

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TAXATION LAWS AMENDMENT BILL (NO. 3) 1993

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SUPPLEMENTARY EXPLANATORY MEMORANDUM

(Circulated by the authority of the Treasurer  
the Hon John Dawkins, M.P.)





## GENERAL OUTLINE AND FINANCIAL IMPACT

This supplementary explanatory memorandum explains the amendments proposed to the *Taxation Laws Amendment Bill (No. 3) 1993*.

### Deductions allowable to life assurance companies

This proposed amendment is to ensure that the formula which allocates certain deductions to the various classes of assessable income of a life assurance company allocates *all* the relevant deductions.

The Bill as it presently stands includes certain amounts in the denominator of the formula, but not all those amounts are included in the total of the numerators used to apportion the non-exclusive deductions of a life assurance company to its various classes of assessable income which are taxed at different rates. The result may be that not all the deductions allowable to a life assurance company would be allocated to a class of assessable income. This was not the intention of the amendment.

**Financial impact:** There is no revenue impact of this amendment.

### Sales Tax: Credit for parts used in repair of business inputs

Provides a credit for tax paid on parts used in the repair of Australian-used goods:

the property in which will be transferred to another person, who will use these goods as business inputs in the primary production, mining or manufacturing industries; or

the property in which will be transferred to another person during the course of repair of other Australian-used goods, where that other person will use these Australian-used goods as business inputs in the primary production, mining or manufacturing industries [*amendments 2 and 3*].

**Date of effect:** 1 January 1993.

**Proposal announced:** Not previously announced.

***Financial impact:*** It is estimated that the amendment will cost \$25 million per annum.

## DEDUCTIONS ALLOWABLE TO LIFE ASSURANCE COMPANIES

### Summary of the amendment

The formula contained in subsection 116CF(2) of the *Income Tax Assessment Act 1936* operates to apportion to the various classes of assessable income of a life assurance company those deductions which do not relate exclusively to any particular class. The amendments contained in the Bill are intended to merely change the components of that formula.

The investment component of 'RA' policy premiums to which section 111AA applies are included in the denominator of the formula by proposed new subsection 116CF(4) together with other amounts to which sections 111A and 111AA apply. Those 'RA' premium amounts are part of the 'CS/RA' class of assessable income. However, the Bill does not include those premiums in the numerator of the formula used to apportion non-exclusive deductions to the 'CS/RA' class of assessable income. This situation is to be corrected by the amendment now proposed [*Amendment 1*].

### Explanation of the amendment

Proposed new subsection 116CF(6) is to be amended to provide that, for the purposes of allocating deductions to the CS/RA class of assessable income, the investment component of premiums to which section 111AA applies, being premiums in respect of RA policies, are to be included as assessable income of that class in addition to premiums in respect of CS policies.



## **SALES TAX CREDIT FOR PARTS USED IN REPAIR OF BUSINESS INPUTS**

### **Summary of proposed amendments**

The proposed amendments will provide a credit for tax paid on parts used in the repair of Australian-used goods:

- the property in which will be transferred to another person, who will use these goods as business inputs in the primary production, mining or manufacturing industries; or
- the property in which will be transferred to another person during the course of repair of other Australian-used goods, where that other person will use these Australian-used goods as business inputs in the primary production, mining or manufacturing industries [*Amendments 2 and 3*].

### **Background to the legislation**

Under the sales tax law, where a person repairs, renovates or reconditions used goods, the new parts used in the work are applied to the use of the person at the time of the repair, renovation or reconditioning. The parts lose their separate identity during the process. If the repairer is not entitled to exemption at the time of the repair, then later sales to exempt persons will not relieve the goods (or the parts used in their repair) from tax.

In many cases, the repaired goods may be later sold to persons entitled to exemption from sales tax on new goods. In other cases, the repaired goods may be used in the repair of other goods used by persons entitled to exemption on new goods. Some examples of these cases are:

- agricultural machinery dealers having traded-in a piece of machinery eg. a tractor, will carry out repairs and then place the machinery in stock. At a later date, the machinery may be sold to a farmer entitled to sales tax exemption;
- in the mining industry, a repairer may recondition units eg. gearboxes, and place these in stock for later use. During the process of repairing a piece of mining machinery for a mining company, the repairer may use the reconditioned unit to replace a damaged piece. The reconditioned unit will be supplied to the mining company as part of the repair contract.

The object of the proposed amendments is to provide a credit for any sales tax that has been paid by the repairer on parts used to repair, renovate or recondition goods that have been sold, or where property in them has passed, to a person who will use the goods as a business input in the primary production, mining or manufacturing industries.

### **Explanation of proposed amendments**

The amendments will insert new credit ground CR22 in the Sales Tax Assessment Act 1992. CR22 will introduce a new concept of "Eligible repair goods", to provide a credit for sales tax paid on parts used to repair second-hand business goods that are:

- sold to a person; or
- used in repair work carried out for a person, where property in the goods supplied passes to the person;

and the person (the purchaser), is engaged in the primary production, mining or manufacturing industries. The parts must become integral parts of the repaired goods. To be integral parts they must be required for the unit to function, rather than be required for actual operation. For example, a cog in a gearbox is required for the gearbox to function, just as a gearbox is required in a tractor for it to function. However, oil in a motor is not an integral part, as the motor will function without the oil, although it certainly will not operate for any great period without the oil.

For the credit to apply, the purchaser must supply the repairer (the claimant) a declaration that the purchaser will use the repaired goods so as to satisfy one or more of exemption Items 1, 2, 18, 23, 28, 29, 33, 35, 36 or 38 in the *Sales Tax (Exemptions and Classifications) Act 1992 [Amendments 2 and 3; clauses 134A, 134B and 135A]*.

The Commissioner will provide purchasers and claimants with details of the form and manner of declaration that will be required.

The stated exemption Items cover the range of business input exemptions available to goods producers engaged specifically in the primary production, mining and manufacturing industries. Contractors to these goods producers who would be entitled to exemption under Item 36 in the *Sales Tax (Exemptions and Classifications) Act 1992*, are also covered. Item 30, [Handling etc. ship's cargo or international air cargo], has not been included as the item is not restricted to goods producers, which is the desired scope of these provisions [*Amendment 2; clause 134B*].



The purpose of the amendment is to remove the element of sales tax that, but for the credit, would be passed onto the primary production, mining or manufacturing industries. Accordingly it is intended that the benefit of the credit be passed on to the affected industries through lower charges for the goods.

Contractors within the scope of exemption Item 36 in the *Sales Tax (Exemptions and Classifications) Act 1992*, have been included with the intention of removing the indirect effect of the sales tax emanating from the repairer, being passed on to the goods producer, through the contractor. Thus it is intended that the benefit be passed from the repairer to the contractor who in turn would pass it on to the goods producer through lower contracting charges.

The credit will be available to the repairer (the claimant), where tax has been borne on parts used in the repair and all the necessary conditions have been met. Both the passing of property and the receipt of the declaration must have occurred, with the timing of availability of the credit being tied to the occurrence of the last of these requirements [*Amendments 2 and 3; clauses 134A, 134B and 135A*].

Some examples of the working of the credit ground are as follows:

- a farm machinery dealer trades-in a tractor. He reconditions the tractor using motor parts with sales tax paid on them of \$200. The tractor is placed in stock. One month later a farmer, entitled to exemption purchases the tractor for use in farming operations. The farmer gives the dealer certification as required. The dealer is now entitled to a credit of \$200. It is intended that this credit be passed on as a reduction in the price of the tractor.
- a bulldozer dealer operates a replacement service for customers. Where a bulldozer requires repair the damaged unit will be removed and replaced by a reconditioned unit. The damaged unit will be taken to the workshop, repaired and placed in stock for later use. A land clearing contractor to the agricultural industry damages a gearbox. This is replaced as part of a service contract with the dealer. A reconditioned gearbox is supplied and fitted. The dealer has paid \$400 in sales tax on gears used to repair the replacement unit. On receipt of certification of exempt status from the contractor, the dealer is entitled to a credit of \$400. It is expected that the \$400 credit will be reflected in the cost of the work to the contractor.

*Timing*

The credit is to apply to parts used by the repairer where the tax was borne on a dealing with the parts that occurred on or after 1 January 1993 [*Amendment 4; subclause 136(1)*].

*Consequential amendment*

Clause 143 of Taxation Laws amendment Bill (No. 3) 1993 provides a special Transitional credit ground CR22 for the RSPCA for tax-bearing dealings with goods on or after 13 March 1993 and before the commencement of Part 8 of that Bill.

Due to the transitional nature of this credit ground, the number will be amended to CR23 to accommodate the use of CR22 for the repair parts [*Amendment 5; clause 143*].











