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THE PARLIAMENT OF THE COMMONWEALTH OF  
AUSTRALIA

HOUSE OF REPRESENTATIVES

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TAXATION LAWS AMENDMENT BILL (NO.5) 1992

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Supplementary Explanatory Memorandum

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

## **General Outline and Financial Impact**

### **Royalty withholding tax**

The amendment will ensure that the current taxation treatment of "equipment royalties" paid or credited to non-residents pursuant to a contract entered into before 8pm on 18 August 1992 will still apply provided that the contract is not varied in any way.

*Financial impact:* Insufficient information available to produce a reliable estimate of the revenue impact.

### **Sales Tax (Exemptions and Classifications) Act 1992**

- The amendment will provide that food for livestock as defined will be unconditionally exempted from sales tax.

*Financial impact:* Negligible cost to revenue.

## **Explanation of the proposed amendment**

### **Royalty withholding tax**

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The definition of the term "royalties" in the *Income Tax Assessment Act* is very broad and includes amounts paid or credited for the use of, or the right to use, any industrial, commercial or scientific equipment. For example, aircraft lease payments to a financier would be an "equipment royalty".

Concern has been expressed that in a number of cases Australian companies who pay "equipment royalties" pursuant to contracts entered into prior to the Budget announcement have contracts that contain provisions which specify that in the event of any tax change in Australia, that the payer of the royalty will pay the additional tax.

A transitional amendment will have the effect of ensuring that the new withholding tax regime will not apply to an "equipment royalty" where the royalty was paid or credited

under a contract entered into before 8pm Australian Eastern Standard Time on 18 August 1992 provided that a variation of the contract does not occur after that time. It will, therefore, not be possible to extend the contract in order to get around the new withholding regime.

Where a variation to a contract does occur, the next royalty payment made after the variation will be subject to withholding tax. Royalty payments made prior to the variation will remain subject to the assessment system.

## **Sales Tax (Exemptions and Classifications) Act 1992**

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### **Food for livestock**

*Explanation of amendment:* Under the existing earlier law (*The Sales Tax (Exemptions and Classification) Act 1935*) there is an exemption for food for livestock. In simplifying the law the specific exemption for food for livestock was omitted on the basis that the goods would be covered by a more general exemption provision relating to business inputs for use in primary production activities. Because there are some situations where food for livestock will not qualify for exemption under the new law, a separate exemption item for food for livestock will be included in the new law.

"Livestock" in the new law is defined to mean:

- (a) animals that are being reared or maintained for producing food, fibres, skins, fur, feathers, or similar products, or for use in farming land; or
- (b) breeding stock for animals covered by paragraph (a); or
- (c) horses;

but does not include:

- (d) fish, crustaceans or molluscs; or
- (e) animals that are kept, or are to be kept, as domestic pets.

The exemption will cover food that is of a kind ordinarily used for animals that come within the definition of livestock [*Clause 129*].



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