

House of Representatives

Supplementary Order Paper

Tuesday, 18 June 2019

Taxation (Annual Rates for 2019-20, GST Offshore Supplier Registration, and Remedial Matters) Bill

Proposed amendments

Hon Stuart Nash, in Committee, to move the following amendments:

Clause 2

Subclause (14B): replace “**Section 45B** comes” (page 9, line 33) with “**Sections 45B, 98, 99, 100, and 101** come”.

Clause 18(2)

Section 15(7): replace “on 1 December 2019” (page 21, line 8) with “in the period beginning on 1 December 2019 and ending on 31 December 2019”.

Clause 19

After *subclause (8)* (page 21, after line 37), insert:

(8B) In section 20(4C), after “section 24(5B)”, insert “or **(5BB)**”.

Clause 23

Repeal *subclause (5B)* (page 23, lines 34 to 36).

After *subclause (6)* (page 23, after line 38), insert:

(6B) After section 24(5B), insert:

(5BB) Despite subsection (5), a supplier is required to provide a tax invoice if section 8(4F) applies to the supply so that the goods or services are treated as being supplied in New Zealand.

Clause 27

After *subclause (3)* (page 25, after line 35), insert:

(4) In section 25AA(1)(a)(v), after “section 24(5B)”, insert “or **(5BB)**”.

Clause 37

Section 60G(1)(b)(ii): replace “**subsection (6).**” (page 31, line 31) with “**subsection (6)**”; and”.

After *section 60G(1)(b)* (page 31, after line 31), insert:

- (c) the registered person relies on the information referred to in paragraph (a) in good faith and on reasonable grounds.

Clause 39

In *clause 39*, as subclause (2) (page 34, after line 18), insert:

- (2) After *section 77(4)*, insert:
 - (5) A supplier of distantly taxable goods who is required to determine under *section 10B* the value of an item of goods in a supply may, for that purpose, convert foreign currency amounts into New Zealand currency amounts using—
 - (a) the spot exchange rate for the foreign currency applying at the time of the supply; or
 - (b) a currency conversion method, and a time for which the method is applied for the supply, that are approved by the Commissioner for the purpose.

Clause 41B

Repeal *clause 41B* (page 35, lines 11 to 13).

Clause 46C

Section CZ 36(1)(b): after “providing them” (page 37, line 11), insert “with”.

Clause 51C

Section EL 14: replace “**and EL 7**” (page 60, line 21) with “**EL 7, and EL 16**”.

Clause 61

In *clause 61*, heading, replace “**agreements**” (page 71, line 8) with “**schemes**”.

Clause 63

Repeal *clause 63* (page 72, lines 20 to 22).

Clause 64B(2)

After “referred to” (page 72, line 30), insert “in”.

Clause 71B

Section 32E(1A): replace “holding an RWT exemption certificate” (page 83, line 25) with “having RWT-exempt status”.

New cross-heading and clauses 98 to 101

After clause 97 (page 92, after line 5), insert:

Amendments to Land Transfer Act 2017

98 Land Transfer Act 2017

Sections 99 to 101 amend the Land Transfer Act 2017.

99 Section 77 amended (Interpretation)

- (1) In section 77(1), repeal the definitions of **main home** and **offshore person**.
- (2) In section 77(1), insert in its appropriate alphabetical order:
non-notifiable transfer means a transfer specified in regulations made under this Act as a non-notifiable transfer
- (3) Repeal section 77(2).

100 Section 79 amended (Content of tax statement)

- (1) After section 79(1)(d), insert:
(da) if the land has a home on it, state whether the transfer is a main home transfer in relation to the transferor or transferee; and
- (2) Replace section 79(5) and (6) with:
- (5) In this section,—
home means a dwelling mainly used as a residence
IRD number has the meaning given to tax file number by section 3(1) of the Tax Administration Act 1994
main home transfer means—
 - (a) in relation to a transferor, a transfer of land that has a home on it if the transferor—
 - (i) is a natural person, is not acting in the capacity of the trustee of a trust, and has resided in the home for more than 50% of the period during which the transferor has been an owner of the land; or
 - (ii) is a trustee of a trust a beneficiary of which is a natural person who has resided in the home for more than 50% of the period during which the land has been the property of that trust:
 - (b) in relation to a transferee, a transfer of land that has a home on it if the transferee—
 - (i) is a natural person, is not acting in the capacity of the trustee of a trust, and intends to reside in the home; or

- (ii) is a trustee of a trust a beneficiary of which is a natural person who intends to reside in the home.

101 Schedule 1 amended (Transitional, savings, and related provisions)

In Schedule 1, after clause 13, insert:

**Part 2
Provision relating to the Taxation (Annual Rates for 2019–
20, GST Offshore Supplier Registration, and Remedial
Matters) Act 2018**

14 Six-month transitional period for existing agreements

- (1) The old regime continues to apply in relation to a transfer of land if—
- (a) an agreement for the transfer of the land was entered into before 1 January 2020; and
 - (b) the instrument of transfer is lodged for registration on or before 1 July 2020.
- (2) In this section, **old regime** means this Act as in force immediately before 1 January 2020 (when **sections 98 to 101 of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2018** came into force).

Explanatory note

This Supplementary Order Paper amends the Bill to insert new clauses that amend the Land Transfer Act 2017 and to amend existing clauses that amend the Goods and Services Tax Act 1985 and the Income Tax Act 2007.

Amendments to Land Transfer Act 2017

Before a transfer of land can be registered, the seller and purchaser must lodge a tax statement (except in some limited circumstances that are not affected by these amendments).

Generally, the tax statement must include the seller's or purchaser's IRD number and information relevant for overseas tax purposes. However, if it is a non-notifiable transfer, that information does not have to be included. Currently, the most common kind of non-notifiable transfer is the transfer of an individual's main home.

Other categories of non-notifiable transfers are prescribed by regulations. However, they are not affected by these amendments except to a very minor extent in relation to offshore persons as explained below.

Originally, the reason for not collecting IRD numbers on the transfer of a main home was that, in most cases, a home owner did not incur tax obligations in relation to the transfer. However, not collecting IRD numbers for those transfer limits the Inland Revenue Department's ability to enforce compliance with property-related tax laws.

The department shares information with other countries for the purpose of preventing tax evasion. Requiring the provision of information relevant for overseas tax purposes on the transfer of a home will help ensure that data provided to treaty partners is easily able to be matched to the correct person.

Sections 77 and 79 of the Land Transfer Act 2017 are amended so that the transfer of a person's main home will no longer be a non-notifiable transfer. As a result, individuals who buy or sell their main home will also be required to provide their IRD number and information relevant for overseas tax purposes.

Currently, a tax statement must state whether the land has a home on it. After these amendments take effect, the seller or purchaser of a home will be required to state whether the transfer is a main home transfer as defined in *new section 79(5)*. This information is collected to identify land transfers that might be relevant for the purposes of the bright-line test and other land-related tax obligations.

These changes do not change when a property transfer is subject to tax — they relate solely to the information people will need to include on their land transfer tax statements.

Currently, a transfer is not a non-notifiable transfer in relation to a seller or purchaser who is an offshore person (regardless of whether it would otherwise qualify as a non-notifiable transfer). This exclusion was directed at the main home category of non-notifiable transfers, which is now being removed. It has negligible relevance to the other categories of non-notifiable transfers, prescribed under the Land Transfer (Land Information and Offshore Persons Information) Exemption Regulations 2015, which exist for different policy reasons. Removing this exclusion will have negligible policy effect and will simplify the law. It is therefore removed from the new definition of non-notifiable transfer.

These amendments to the Land Transfer Act 2017 will come into force on 1 January 2020. A 6-month transitional period is provided by *new clause 14* of Schedule 1AA. If an agreement to transfer land is entered into before 1 January 2020, the tax statement does not need to comply with the new requirements if the transfer is registered on or before 1 July 2020.

Amendments to Goods and Services Act 1985

Clause 18 is amended so that an extended first taxable period is available to persons who become registered persons during the first month to which the new regime applies.

Clause 23 is amended by repealing *subclause (5B)* and inserting *new subclause (6B)*. The new subclause inserts *new section 24(5BB)*, which provides that the issue of a tax invoice by an affected registered person is required, rather than being optional.

Clauses 19 and 27 are amended so that they insert cross-references to *new section 24(5BB)* into sections 20 and 25AA.

Clause 37 is amended so that it inserts in *section 60G(1)* an express requirement that a person who relies on information provided by another must act in good faith and on reasonable grounds to be excused from liability for a resulting deficiency in output tax.

New clause 39(2) inserts *new section 77(4)*, which provides a rule for use by suppliers of distantly taxable goods when converting values expressed in foreign currency to New Zealand currency.

Income Tax Act 2007

Clauses 41B and 63 are repealed because they are made unnecessary by a recent Act.

Clauses 46C and 64B(2) are each amended by inserting a missing word.

Clause 51C is amended by inserting a missing cross-reference.

Clause 61 is amended to correct the heading of the section being replaced.

Clause 71B is amended to correct nomenclature.

Departmental disclosure statement

The Inland Revenue Department is required to prepare a disclosure statement to assist with the scrutiny of this Supplementary Order Paper. The disclosure statement provides access to information about any material policy changes to the Bill and identifies any new significant or unusual legislative features of the Bill as amended.

A copy of an updated disclosure statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=sop&subtype=government&year=2019&no=248&>

Regulatory impact assessment

The Inland Revenue Department produced a regulatory impact assessment on 17 May 2019 to help inform the new policy decisions taken by the Government relating to the contents of this SOP.

A copy of this regulatory impact assessment can be found at—

- <http://taxpolicy.ird.govt.nz/publications/type/regulatory-impact-assessment>
- <http://www.treasury.govt.nz/publications/informationreleases/ria>