

1993

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

Taxation (Administration) (Amendment) Bill (No.2) 1993

EXPLANATORY MEMORANDUM

Circulated by the Authority of the Chief Minister and Treasurer

Rosemary Follett, MLA

TAXATION (ADMINISTRATION) (AMENDMENT) BILL (No 2) 1993

The Taxation (Administration) Act 1987 (the Act) provides a consolidated system for the administration of laws dealing with taxation in the ACT.

Amendments are proposed that will ensure refunds of tax are only available where the taxpayer satisfies the Commissioner that the refund sought will not represent a windfall gain to the taxpayer but will be returned to the person who bore the incidence of the tax, namely the taxpayer's customer. The refund provisions have also been amended to ensure that no claim will be able to be made in respect of taxes paid under invalid legislation, where the invalidity arises from a non legislative change of law - for example, where the courts decide that a revenue law is invalid.

Financial Implications

The amendments will not directly increase revenue, however they will ensure the future protection of the ACT revenue. No additional costs will be involved.

Details of the bill are attached.

DETAILS OF THE TAXATION (ADMINISTRATION) (AMENDMENT) BILL (NO 2) 1993

Short title

Clause 1 - Provides for the short title of this Act to be the Taxation (Administration) (Amendment) Act (No 2) 1993 (the Act).

Commencement

Clause 2 - Provides that this Act is to commence on the day of gazettal.

Principal Act

Clause 3 - Provides that the 'Principal Act' is the Taxation (Administration) Act 1987.

Review of decisions

Clause 4 - Provides taxpayers with a right of appeal to the Administrative Appeals Tribunal where the Commissioner refuses a refund (Clause 6). This amendment provides consistency with other decisions made by the Commissioner in relation to tax laws.

Notification of decisions

Clause 5 - Provides that where the Commissioner makes a decision refusing to refund an amount under proposed section 95C, the Commissioner must provide a notice to taxpayers informing them of their rights of appeal. This will ensure the taxpayers' rights of appeal remain consistent with their rights in relation to other decisions made by the Commissioner.

Insertion

Clause 6 - Inserts new Part XIIIA

PART XIIIA- REFUND OR RECOVERY OF REVENUE AMOUNTS

Interpretation

95B - Provides a definition of "revenue amount"

Limitation of refunds of revenue amounts

95C - Provides for certain criteria to be met before a refund can be issued. Taxpayers must satisfy the Commissioner that they have not passed the impost on to third parties, or if they have, those third parties have been reimbursed. This will ensure that the refund sought will not represent a windfall gain to the taxpayer, but will be returned to the person who bore the incidence of the tax, namely the taxpayer's customer.

Recovery of revenue amounts following non-legislative change in law

95D - Prevents recovery of taxes that were paid in the belief that a revenue law was valid even though the law was subsequently found by a court to be invalid.

Characterisation

95E - Provides for Part XIIA (refund provisions) to form part of the substantive law of the ACT. This will result in these provisions being applied by the courts in other States and Territories in the event action is taken to obtain a refund of monies from the ACT in those courts.