

House of Representatives
Supplementary Order Paper

Tuesday, 26 July 2005

**Taxation (Depreciation, Payment Dates Alignment, FBT, and
Miscellaneous Provisions) Bill**

Proposed amendments

Hon Dr Michael Cullen, in Committee, to move the following:

Clause 2

To insert after subclause (5) (page 8, after line 12) the following:

- (5B) **Sections 106(1A), 106(5B), 107B, and 143(3B)** are treated as coming into force on 21 July 2005.

Clause 106

To insert before subclause (1) (page 109, before line 20) the following:

(1A) After section ME 6(1), the following is inserted:

“(1B) Notwithstanding subsection (1), an imputation credit account company is not allowed to attach an imputation credit to a dividend if—

“(a) the Income Tax Assessment Act 1997 (Aust) applies to the payment of the dividend by the company; and

“(b) the dividend is paid in relation to a share that is, or forms part of, a debt interest under the Income Tax Assessment Act 1997 (Aust).

“(1C) **Subsection (1B)** does not apply in relation to a share issued before 21 July 2005 if, when the dividend is paid, the shareholder is not in the same group of companies as the imputation credit account company under the Income Tax Act 2004.”

To insert after subclause (5) (page 110, after line 14) the following:

- (5B) **Subsection (1A)** applies for a dividend that is paid by an imputation credit account company to a shareholder—
- (a) in relation to a share issued on or after 21 July 2005:

- (b) on or after 1 April 2006 in relation to a share issued before 21 July 2005, if, when the dividend is paid, the shareholder is in the same group of companies as the imputation credit account company under the Income Tax Act 2004.

New clause 107B

To insert after clause 107 (page 110, after line 30) the following:

107B Allocation rules for imputation credits

After section ME 8(5), the following is added:

- “(6) Nothing in subsections (2) to (4) applies to an imputation credit account company in relation to a dividend to which the imputation credit account company is not allowed to attach an imputation credit.”

Clause 143

To insert after subclause (3) (page 129, after line 18) the following:

- (3B) The definition of **benchmark dividend** is replaced by the following:
 - “**benchmark dividend** means the first dividend paid by a company in an imputation year that is not 1 of the following kinds:
 - “(a) a distribution of a co-operative company for which the company has made a determination under section ME 35 (Co-operative company may make annual determination to attach imputation credit to certain distributions):
 - “(b) a dividend to which the company is not allowed by section ME 6 (Company may attach imputation credit to dividend) to attach an imputation credit”.

Explanatory note

This Supplementary Order Paper amends the *Taxation (Depreciation, Payment Dates Alignment, FBT, and Miscellaneous Provisions) Bill* to prevent an imputation credit account company from attaching an imputation credit under the *Income Tax Act 2004* to a dividend that is deductible expenditure for the company under the tax law of Australia.

The amendment to *clause 2* provides for the other amendments to come into force on 21 July 2005.

In *clause 106*, new *subclause (1A)* inserts new *section ME 6(1B)*, which prevents an imputation credit account company from attaching an imputation credit to a dividend if the dividend is paid in relation to a debt interest under the *Income Tax Assessment Act 1997* (Aust). New *subclause (5B)* provides that the amendment affects: all dividends paid in relation to a share issued on or after 21 July 2005; dividends paid on or after 1 April 2006 in relation to other

shares if the shareholder and the company are associated. Dividends paid in relation to other shares if the shareholder and the company are not associated are not affected. New *section ME 6(1C)* provides that *section ME 6(1B)* does not apply to a share if the share was issued before 21 July 2005 and the holder and the issuer were not in the same group of companies at the time the dividend was paid.

New *clause 107B* inserts new *section ME 8(6)*, which provides that a dividend to which an imputation credit account company may not attach an imputation credit is not affected by the rules relating to the amount of imputation credits that the company may attach to a dividend.

In *clause 143*, new *subclause (3B)* inserts a new definition of *benchmark dividend*. The amount of a benchmark dividend for an imputation year affects the amount of imputation credits that a company may attach to later dividends in the imputation year. Under the new definition, a dividend to which the company may not attach an imputation credit is excluded from being a benchmark dividend.
