

House of Representatives
Supplementary Order Paper

Tuesday, 20 June 2006

Taxation (Annual Rates, Savings Investment, and
Miscellaneous Provisions) Bill

Proposed amendments

Hon Peter Dunne, in Committee, to move the following:

Clause 2

New subclause (3B): to insert after *subclause (3)* (after line 5 on page 9) the following subclause:

- (3B) **Section 165B(1), (3), and (4)** is treated as coming into force on 1 October 2001.

Subclause (7): to omit “**and 140**” (line 13 on page 9) and substitute “**140, and 165B(2)**”.

New clause 165B

To insert after *clause 165* (after line 32 on page 115) the following clause:

165B Group of companies

- (1) Section 55(1) is replaced by the following:

“(1) For the purposes of this Act, 2 or more companies (**the companies**) are eligible to be members of a group of companies at a time, if the companies are a group of companies, or are part of a group of companies, under section IG 1 of the Income Tax Act 1994 at that time, and—

“(a) each of the companies is a registered person:

“(b) the total value of taxable supplies made by the companies, in any 12-month period which includes that time, to persons other than the companies, is at least 75% of the total value of supplies made by the companies in that period.”

- (2) In section 55(1), as inserted by **subsection (1)**, “Income Tax Act 1994” is replaced by “Income Tax Act 2004”.

- (3) In section 55(4),—
- (a) in paragraph (d), “section,—” is replaced by “section.”;
 - (b) the words after paragraph (d) are omitted.
- (4) After section 55(4), the following is inserted:
- “(4AA) The Commissioner shall grant an application made under subsection (4) of this section from—
- “(a) the beginning of such taxable period as is determined by the Commissioner, unless **paragraph (b)** applies; or
 - “(b) the beginning of the taxable period in which the relevant company is first eligible, under **subsection (1)(b)** of this section, to be a member of the group of companies, if the application is made under subsection (4)(a) of this section.”
- (5) In section 55(4), as amended by **subsection (3)**,—
- (a) in paragraph (d), “section.” is replaced by “section,—”;
 - (b) after paragraph (d), the following is inserted:
and the Commissioner shall grant the application from the beginning of such taxable period as is determined by the Commissioner.”
- (6) Section 55(4AA), as inserted by **subsection (4)**, is repealed.

Explanatory note

This Supplementary Order Paper amends the Taxation (Annual Rates, Savings Investment, and Miscellaneous Provisions) Bill.

The proposed amendments allow 2 or more companies to form a GST group even if they are not all GST registered, provided they are a group for income tax purposes and, as a whole, make predominantly taxable supplies. The amendments also provide that eligibility to form a GST group is to be determined at a time, rather than under the current approach of determining eligibility in respect of a monthly period.

The proposed amendments apply retrospectively to allow companies that were previously unable to form a GST group to now do so. GST group companies are effectively treated as a single entity in relation to their intra-group supplies. Consequently, the amendments remove some of the GST risks associated with intra-group supplies. Those supplies have caused problems for at least one taxpayer.

For the retrospective period, the Commissioner will not determine the beginning date for a company that is brought into a pre-existing GST group using the retrospective amendments.

Groups of companies that are currently in a GST group or do not choose to apply the amendments are unaffected by the amendments.

The amendments to *clause 2* give retrospective commencement dates to the provisions of new *clause 165B*.

New *clause 165B* allows certain companies to be included in, and have the advantages of being in, a GST group.
