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**THE PARLIAMENT OF THE COMMONWEALTH OF
AUSTRALIA**

SENATE

SWIMMING POOLS TAX REFUND BILL 1992

**SUPPLEMENTARY EXPLANATORY
MEMORANDUM**

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

General Outline and Financial Impact

Swimming Pools Tax Refund Bill 1992

The amendments will change the Bill:

- to allow a refund to be paid directly to the pool purchaser if a builder and purchaser make a joint declaration;
- if a builder has died or no longer exists, to enable the purchaser to obtain a refund from the Commissioner if he or she is able to supply the information needed to complete the necessary declaration;
- to provide purchasers who obtain a refund from their builder with an entitlement to interest for the period commencing when the tax was paid until they received the refund;
- to provide purchasers who obtain a refund direct from the Commissioner with an entitlement to interest for the period commencing when the 'tax' was remitted up until the refund is paid;
- to allow for a payment to be made to the pool builder to cover administrative costs associated with preparing declarations that will give purchaser's refunds; and
- to ensure that there is sufficient time for the refund declarations to be lodged with the Commissioner by extending the period provided in the Bill to 2 years from commencement of the Act.

Financial Impact

2. It is anticipated that these amendments will have a relatively minor impact on the revenue. The cost to the revenue is unquantifiable at this time.

Explanation of the Amendments

***In situ* pool refund payments only to be made in certain circumstances**

3. The Commissioner will refund amounts paid as sales tax on *in situ* pools if a declaration is received within 2 years of the commencement of the Act:

- (a) from a builder in relation to a pool setting out the amount of 'tax' borne by the builder and the amount that was passed on to the purchaser but which has since been refunded to that purchaser;
- (b) jointly from a builder and a purchaser supplying sufficient information for a refund to be paid directly to the purchaser in relation to a pool; or
- (c) from a purchaser, if the builder is deceased or no longer in existence, supplying sufficient information for a refund to be made to the purchaser in relation to a pool.

4. It will be possible for more than one declaration to be lodged in relation to a pool. However, only one of each kind of declaration can be lodged in relation to a pool.

5. If the declaration is received from the purchaser (because the builder no longer exists) or jointly from the purchaser and the builder, the refund will be paid directly to the purchaser.

[new clause 4]

Payments of interest on *in situ* pool refunds

6. Interest will be payable, for the full period the Commonwealth had use of the money, to pool purchasers who receive refunds directly from the Commissioner. Interest will be payable commencing from the time the tax was remitted until the time the refund is made.

[new subclause 5(3)]

7. The Commissioner will also pay interest for the period the purchaser was out of pocket to a pool purchaser who has received a refund through their pool builder. The pool purchaser will receive the interest payment from the Commissioner at the same time as the refund of the tax is made to the builder. Interest will be payable to the pool purchaser for the period commencing when the builder remitted

the tax and ending when the purchaser received a refund from the builder. (The Bill already provides for a payment of interest to a builder for the balance of the period the Commonwealth had the use of the money i.e., from when the refund was made to the purchaser up until the day the refund is made by the Commissioner).*[new clause 5A]*

8. The interest payments made to purchasers will be reduced by the amount of the administrative fee payable to the builder (refer to explanation in paragraphs 9 and 10).

Payment to the builder as compensation for administrative costs

9. A pool builder will be entitled to a payment to cover costs incurred in preparing any declarations that enable a pool purchaser to receive a refund. This administrative payment will be subtracted from the interest payment that will be made to the pool purchaser.

10. The amount of this payment will be \$100 or if the total interest payment is less than \$100, the interest payment. This payment will be made directly to the builder by the Commissioner.*[new clause 5B]*

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