

1994

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

TAXATION LAWS AMENDMENT BILL (NO. 3) 1994

SUPPLEMENTARY EXPLANATORY MEMORANDUM

(Circulated by the authority of the Treasurer the Hon Ralph Willis, M.P.)

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General Outline and Financial Impact

Regional headquarters - Income tax concessions

The amendments will make three minor technical corrections to the dividend withholding tax exemption provisions which will ensure that the measure has its intended effect.

Financial impact: None.

Amendments 1 to 3

1 *Regional headquarters - Income tax concessions*

Explanation of the amendments

Amendment 1: Certain income not included in assessable income

Although the relevant provisions of the Bill achieve the right result by exempting certain dividends from dividend withholding tax, because of a drafting oversight, technically they could still be subject to tax under the normal assessment process. This amendment will specifically exclude them from assessable income by amending section 128D of the *Income Tax Assessment Act 1936*. [Clause 46A]

Amendment 2: Amount of a dividend

Because of the way the foreign tax credit system operates, any dividend income received by an Australian multinational would be grossed up by any foreign tax paid (including any underlying tax on the profits from which the dividends are paid), thus artificially inflating the amount of a dividend which is to be subject to the withholding tax exemption. This amendment proposes the introduction of *new section 128SA* which will ensure that only the net dividend received is taken into account. The net dividend properly reflects the profit amount capable of being distributed by a resident company to its own shareholders. [Clause 47]

Amendment 3: Amount of credit

Dividends paid out of attributed income under the controlled foreign companies or the foreign investment fund provisions of the *Income Tax Assessment Act 1936* are exempt under section 23AI and 23AK. Although the explanatory memorandum makes it quite clear that dividend income that is exempt from income tax under these sections is to be excluded from the new arrangements, the proposed legislation may currently not achieve this result. This amendment to proposed paragraph 128TA(2)(b) will specifically exclude this type of dividend income from the exemption. [Clause 47]

