

Short-Form Departmental Disclosure Statement

Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Bill

A short form disclosure statement for proposed government amendments to a Bill seeks to bring together in one place some selected information to support and enhance the Parliamentary and public scrutiny of those proposed amendments.

It highlights certain significant powers or features in the proposed amendments that might be of particular Parliamentary or public interest and warrant an explanation.

There was no original disclosure statement for this Bill (because the Bill was introduced before the disclosure statement requirement).

This disclosure statement was prepared by Inland Revenue. It relates to one amendment only. A disclosure statement is not required for the other amendments.

The Inland Revenue certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

7 February 2014.

Significant Legislative Features

Offences, penalties and court jurisdictions

1. Do the proposed amendments create, amend, or remove:	
(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalties)?	NO
(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO

Privacy issues

2. Do the proposed amendments create, amend, or remove any provisions relating to the collection storage, access to, correction of, use or disclosure of personal information?	NO
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Compulsory acquisition of private property

3. Do the proposed amendments contain any provisions that could result in the compulsory acquisition of private property?	NO
Given the nature of tax, this Supplementary Order Paper (SOP) does contain provisions that could result in the compulsory acquisition of private property. However, for the purposes of this statement, the answer is "No" as per the scope of this question explained in page 50 of the <i>Disclosure Statements for Government Legislation: Technical Guide for Departments</i> (June 2013).	

Charges in the nature of a tax

4. Do the proposed amendments create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
Given this SOP is amending tax legislation, it does contain provisions that create or amend a power to impose a charge that is a tax. However, for the purposes of this statement, the answer is "No" as per the scope of this question explained in page 53 of the <i>Disclosure Statements for Government Legislation: Technical Guide for Departments</i> (June 2013).	

Retrospective effect

5. Do the proposed amendments affect rights, freedoms, or impose obligations, retrospectively?	YES
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This SOP contains several changes that are retrospective, only one of which requires a disclosure statement under the *Disclosure Statements for Government Legislation: Technical Guide for Departments* (June 2013).

The SOP introduces clause 29B to the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Bill. Clause 29B retrospectively amends the Income Tax Act 2007 (Act) by repealing section DG 3(4)(c) of the Act with application for the 2013-14 and later income years (clause 29B comes into force on 1 April 2013).

Section DG 3(4)(c) contains an exclusion from the mixed use asset regime for assets undergoing a change of use in an income year. The provision as drafted is wider than intended and therefore it is necessary to repeal the section retrospectively to give effect to Parliament's original policy intention for the mixed use asset regime (which was, itself, introduced with general application for the 2013-14 and later income years).

Section DG 3(4)(c) was originally included in response to a submission received at the Finance and Expenditure Committee stage of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013. It was intended to exclude from the operation of the mixed use asset regime assets that undergo a change of use in an income year from purely private use to purely income-earning use (or vice-versa). It was also intended that assets that became mixed use assets part way through an income year would be subject to a part-year rule to apportion interest deductions appropriately. Section DG 3(4)(c) was intended to achieve this policy intention, but, as drafted, it applies too widely and thus excludes assets that are intended to be within the regime. Because of this wide application, the provision is being repealed by the SOP and officials have undertaken to consult with the submitter who raised the original policy issue to consider an appropriate replacement provision at a later date.

Strict liability or reversal of the burden of proof for offences

6. Do the proposed amendments:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for any offence or civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

7. Do the proposed amendments create or amend a civil or criminal immunity for any person?	NO
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Significant decision-making powers

8. Do the proposed amendments create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO
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Powers to make delegated legislation

9. Do the proposed amendments create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO
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10. Do the proposed amendments create or amend any other powers to make delegated legislation?	NO
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Any other unusual provisions or features

11. Do the proposed amendments contain any provisions (other than those noted above) that are unusual or call for special comment?	NO
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