

Short-Form Supplementary Departmental Disclosure Statement

Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Bill 2013
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A short form supplementary 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 contained in the Supplementary Order Paper that might be of particular Parliamentary or public interest and warrant an explanation.

It provides a limited supplement to the original disclosure statement for the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Bill 2013, dated Tuesday 12 November, which can be found at this link <http://disclosure.legislation.govt.nz/bill/government/2013/176/>.

This supplementary disclosure statement was prepared by Inland Revenue.

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

28 May 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

1.1. Was the Ministry of Justice consulted about these provisions?	N/A
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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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2.1. Was the Privacy Commissioner consulted about these provisions?	N/A
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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
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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
As per the Disclosure Statement for the Bill, given the Bill (including the Supplementary Order Paper) 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 supplementary 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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- **Amateur sports promoters' exemption**

The proposed amendment that confirms that sporting trusts are eligible for income tax exemption in the Income Tax Act 2007 for amateur sports promoters has a retrospective application date. The proposed amendment ensures that sporting trusts are on the same footing as other legal entities in terms of their eligibility for the income tax exemption, as there is no policy reason for treating trusts differently from other legal entities with the same or similar purposes. This retrospective application date is beneficial to affected taxpayers and not objectionable on the basis that it will give current sporting trusts (estimated to be 152 trusts) that are relying on the exemption certainty that their tax-exempt status is preserved.

- **Section 81A cross-reference correction**

The proposed amendment that corrects a cross-reference in section 81A of the Tax Administration Act applies retrospectively from 27 February 2013, to align with the date section 81A came into force.

- **Non-resident seasonal worker clarification**

The proposed amendment inserts a definition of the term "non-resident seasonal worker" in the Tax Administration Act, with effect from 1 April 2008. The retrospective application date is intended to be taxpayer friendly, as it aligns the meaning of the term with the definition used in the Income Tax Act 2007 (and the date this definition came into force that is, 1 April 2008).

- **Mixed use asset capital use clarification**

The proposed amendment clarifies the operation of the expenditure apportionment formula to allow for instances where there is capital use of an asset as well as income-earning and private use. The amendment ensures the apportionment formula is consistent with both the original policy of the mixed use assets rules and the changes recommended by the Finance and Expenditure Committee for this Bill. The amendment applies retrospectively from the commencement of the mixed use asset regime (the 2013–14 and later income years for land and improvements, and the 2014–15 and later income years for boats and aircraft). This retrospective application date is beneficial to affected taxpayers.

- **Canterbury earthquake-related amendment**

The proposed amendment corrects a minor wording defect in the provisions relating to depreciable property affected by the Canterbury earthquakes, with effect from 4 September 2010. The amendment ensures that the depreciation roll-over relief measures work as intended. This retrospective application date is beneficial to affected taxpayers.

- **Financial arrangements**

The SOP proposes to correct cross-references and one minor fault of expression in the provisions relating to agreements for sale and purchase that are financial arrangements under the Income Tax Act 2007. Those provisions and, consequently, the SOP's proposal to correct them, apply retrospectively.

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

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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