New Zealand

2023/24 Tax Amendment Bill Extends Tax Exemption for Offshore Petroleum Exploration, Provides Flood Relief

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Apart from measures announced in the Budget 2023/24 statement and implementation of the OECD Pillar 2 Global Anti-Base Erosion rules (*see* Government Introduces 2023/24 Tax Amendment Bill Into Parliament (22 May 2023)), the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Bill that was introduced into Parliament on 18 May 2023 also extends the tax exemption for offshore exploration and development activities, provides relief for flood-hit businesses, amends the taxation of back-dated accident compensation payments and addresses other sundry matters.

The measures are summarized below.

Tax exemption for income of non-resident offshore oil rig and seismic vessel operators

The Bill proposes extending the existing 5-year tax exemption on the income of non-resident offshore oil rig and seismic vessel operators for a further 5 years until 31 December 2029. The exemption was due to expire on 31 December 2024.

The exemption is intended to remove the incentive for rigs and seismic vessels to "churn", i.e. to move in and out of New Zealand waters within 183 days to ensure that their income is not taxable under New Zealand's tax treaties.

North Island flooding tax relief

To assist insured businesses severely affected by the January-February North Island flooding events, by way of improved cash flow to rebuild or replace assets destroyed or made economically useless by the floods, the Bill proposes a tax rollover relief where the receipt of insurance proceeds for a destroyed business asset gives rise to either depreciation recovery income or income on the disposal of a revenue account asset. The rollover relief would be to defer the recognition of this income, provided that there is a commitment to rebuild or replace the destroyed buildings or plant.

ACC and MSD backdated payments

To address a current tax disparity that arises when the timing of a receipt of a backdated lump-sum payment results in a higher tax liability than would arise if the amount had been spread over the periods (being more than 1 income year) to which it relates, the Bill proposes that:

- for backdated ACC compensation payments, the tax rate would be:
  - 10.5% if the recipient's average basic tax rate calculated over the 4 previous years is less than 10.5%; or
  - the recipient's average basic tax rate calculated over the 4 previous years; or
  - the recipient's basic tax rate for the year that they receive the payment if that rate is higher than 10.5% and lower than their average basic tax rate for the 4 previous years;
- for backdated MSD benefit payments, the tax deducted by MSD would be treated as the final amount of tax owed.

Sundry matters

Sundry matters addressed by the Bill include:

- excluding technical services fees, interest and royalties connected to a third state permanent establishment from the tax treaty source rule;
- clarifying the rules relating to non-cash dividends received by a custodian from a foreign company;
- treating persons becoming New Zealand residents as acquiring all financial arrangements with a New Zealand source held by them on the date that they become a resident;
- changing the relevant period in the 10% income interest test for access to the attributable foreign investment fund income method; and
- extending automatic resident withholding tax-exempt status to all entities registered under the Charities Act 2005.

Public submissions on the Bill to the Parliamentary Finance and Expenditure Select Committee close on 16 June 2023.

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