

# Taxation (Base Maintenance and Miscellaneous Provisions) Bill

2 November 2004

Attorney-General

## LEGAL ADVICE

CONSISTENCY WITH THE NEW ZEALAND BILL OF RIGHTS ACT 1990:  
Taxation (Base Maintenance and Miscellaneous Provisions) Bill

1. We have considered whether the Taxation (Base Maintenance and Miscellaneous Provisions) Bill (the "Bill") (IRD041029/1) is consistent with the New Zealand Bill of Rights Act 1990 (the "Bill of Rights Act"). We understand that the Bill will be considered by the Cabinet Legislation Committee at its meeting on Thursday, 11 November 2004.
2. We have concluded that the Bill appears to be consistent with the Bill of Rights Act.
3. The Bill would make several changes to current taxation laws contained in the Income Tax Act 1994, Income Tax Act 2004, Tax Administration Act 1994, and the Goods and Services Tax Act 1985. Examples of significant changes contained in the Bill include amendments to:
  - limit the extent to which foreign banks can debt fund their New Zealand operations, and their offshore investments out of New Zealand;
  - exempt from tax non-resident companies with drilling rigs and seismic ships involved in exploration of offshore oil or gas fields;
  - address concerns raised about tax deductions available for business environmental expenditure;
  - revise the generic rules about tax treatment of transfers of assets following a taxpayer's death;
  - enable disclosure of pertinent information for purposes of Parental Leave and Employment Protection Act 1987; and
  - clarify the non-disclosure right for tax advice.

Some of these amendments have retrospective effect. However, any retrospectivity is benign in effect.

4. In accordance with your instructions, we attach a copy of this opinion for referral to the Minister of Justice. A copy is also attached for referral to the Minister of Finance, if you agree.

Allison Bennett                      Margaret Dugdale  
Principal Legal Adviser      Manager  
Office of Legal Counsel Bill of Rights/Human Rights Team

cc Minister of Justice  
Minister of Finance

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