

24 June 2008

ATTORNEY-GENERAL

LEGAL ADVICE
CONSISTENCY WITH THE NEW ZEALAND BILL OF RIGHTS ACT 1990:
TAXATION (INTERNATIONAL TAXATION, LIFE INSURANCE, AND REMEDIAL
PROVISIONS) BILL

1. We have considered whether the Taxation (International Taxation, Life Insurance, and Remedial Provisions) Bill (the "Bill") (IRD 12949 v.2.1) is consistent with the New Zealand Bill of Rights Act 1990 ("Bill of Rights Act"). We understand that the Bill will be considered by the Cabinet Legislation Committee at its meeting on Thursday, 26 June 2008.
2. The Bill seeks to make a significant number of amendments to New Zealand's suite of revenue legislation. In particular, the Bill is designed to:
 - effect a major overhaul of the international tax rules by introducing a tax exemption for offshore companies owned by New Zealand businesses and exempting most foreign dividends received by New Zealand companies from tax, while containing the associated risk to the New Zealand tax base;
 - introduce comprehensive changes to the taxation of life insurance, including the introduction of an integrated framework extending many portfolio investment entity benefits to all savers in life products. Life insurers will also be taxed on their actual profits from term insurance rather than on the basis of the present formulas that give unintended tax concessions; and
 - make a number of remedial amendments, including addressing weaknesses in the current definitions of "associated persons", introducing specific tax rules for the treatment of payments that reimburse expenditure incurred in undertaking voluntary activities, and changing income tax law to resolve uncertainty as to the tax treatment of payments by employers in relocating their employees and providing them with overtime meal allowances.
3. We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act.

Michael Petherick
Manager – Ministerial Advice
Office of Legal Counsel

Stuart Beresford
Manager
Bill of Rights/Human Rights

In addition to the general disclaimer for all documents on this website, please note the following: This advice was prepared to assist the Attorney-General to determine whether a report should be made to Parliament under s 7 of the New Zealand Bill of Rights Act 1990 in relation to the Taxation (International Taxation, Life Insurance, and Remedial Provisions) Bill. It should not be used or acted upon for any other purpose. The advice does no more than assess whether the Bill complies with the minimum guarantees contained in the New Zealand Bill of Rights Act. The release of this advice should not be taken to indicate that the Attorney-General agrees with all aspects of it, nor does its release constitute a general waiver of legal professional privilege in respect of this or any other matter. Whilst care has been taken to ensure that this document is an accurate reproduction of the advice provided to the Attorney-General, neither the Ministry of Justice nor the Crown Law Office accepts any liability for any errors or omissions.