

What's New?

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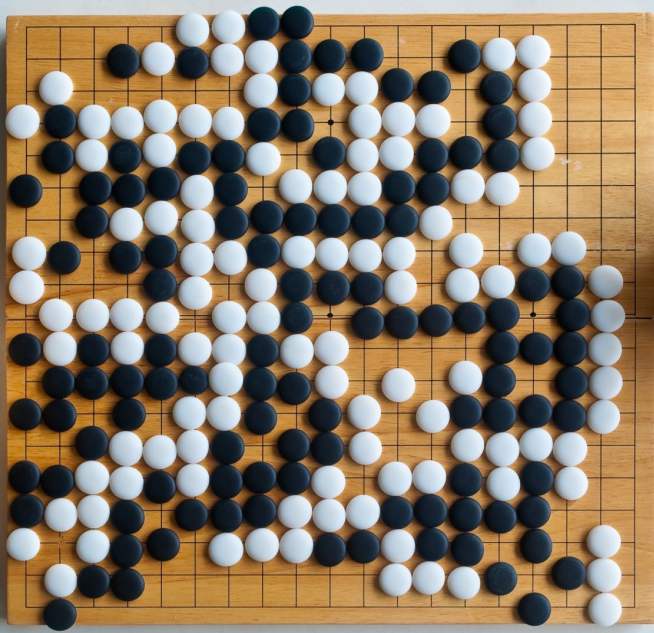
Finance Bill 2020 - Amendment of section 140A of ITA 1967:
Power to substitute price, disregard structure and impose
surcharge

**2020 財政法案 -
1967年所得稅法令
Finance Bill 2020**



替代价格，无视结构
和征收附加费的权力

Power to substitute price, disregard
structure and impose surcharge



Power to substitute ~~the price on certain transactions~~ price, disregard structure and impose surcharge

[Income Tax Act 1967]



These amendments come into operation on 1 January 2021.

140A(3A)	<p>The Director General may disregard any structure adopted by a person in entering into a transaction if—</p> <ul style="list-style-type: none">(a) the economic substance of that transaction differs from its form; or(b) the form and substance of that transaction are the same but the arrangement made in relation to the transaction, viewed in totality, differs from those which would have been adopted by independent persons behaving in a commercially rational manner and the actual structure impedes the Director General from determining an appropriate transfer price.
	[To introduce new subsection]

Power to substitute ~~the price on certain transactions~~ price, disregard structure and impose surcharge

[Income Tax Act 1967]

These amendments come into operation on 1 January 2021.



140A(3B)	Where the Director General disregards any structure adopted by a person entering into a transaction under subsection (3A), the Director General shall make adjustments to the structure of that transaction as he thinks fit to reflect the structure that would have been adopted by an independent person dealing at arm's length having regard to the economic and commercial reality.
	[To introduce new subsection]

Power to substitute ~~the price on certain transactions~~ price, disregard structure and impose surcharge

[Income Tax Act 1967]

These amendments come into operation on 1 January 2021.



140A(3C)	Where this section and any rules made under paragraph 154(1)(ed) apply, the Director General may by notice in writing require that person to pay a surcharge of not more than five per cent of the amount of increase of any income generally, or reduction of any deduction or loss, as the case may be, as a consequence of exercising his powers to substitute the price in respect of a transaction entered into by a person to reflect an arm's length price for that transaction or to disregard any structure adopted by a person in entering into a transaction.
	[To introduce new subsection]

Power to substitute ~~the price on certain transactions~~ price, disregard structure and impose surcharge

[Income Tax Act 1967]



These amendments come into operation on 1 January 2021.

140A(3D)	Any surcharge required to be paid by a person under subsection (3C) shall be collected by the Director General as if it were tax payable by that person, but shall not be treated as tax so payable for the purposes of any provision of this Act other than sections 103 to 106.
	[To introduce new subsection]

Power to substitute ~~the price on certain transactions~~ price, disregard structure and impose surcharge

[Income Tax Act 1967]



These amendments come into operation on 1 January 2021.

140A(5)	The transactions referred to in subsection (2) and (3A) shall be construed as a transaction between— (a) persons one of whom has control over the other; (b) individuals who are relatives of each other; or (c) persons both of whom are controlled by some other person (in this section referred to as “third person”).
	[To widen the scope]

Finance Bill 2020 - Amendment of section 140A of ITA 1967: Power to substitute price, disregard structure and impose surcharge



- With these amendments:
 - new subsections 140A(3A) and (3B) seek to empower the Director General **to disregard** any structure adopted in entering into a transaction and to make adjustment to the structure of that transaction to reflect the structure that would have been adopted by an independent person dealing at arm's length having regard to economic and commercial reality.



Finance Bill 2020 - Amendment of section 140A of ITA 1967: Power to substitute price, disregard structure and impose surcharge



- With these amendments:
 - new subsection 140A(3C) of Act 53 seeks to provide that the Director General may by notice in writing require any person **to pay surcharge** of not more than five per cent of the amount of increase of any income generally, or reduction of any deduction or loss, as a consequence of exercising the Director General's power to substitute the price in respect of a transaction to reflect an arm's length transaction or to disregard any structure adopted in entering into a transaction.



Finance Bill 2020 - Amendment of section 140A of ITA 1967: Power to substitute price, disregard structure and impose surcharge



- With these amendments:
 - The proposed new subsection 140A(3D) of Act 53 seeks to provide that any surcharge to be paid by a person shall be collected by the Director General as if it were tax payable but shall not be treated as tax so payable for the purposes of any provision of Act 53 other than sections 103 to 106 of Act 53.
 - These amendments come into operation on 1 January 2021.



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