



A New Tax System (Fringe Benefits Reporting) Act 1999

No. 17, 1999



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An Act to implement A New Tax System by providing for employees' fringe benefits to be taken into account in working out their tax, higher education contributions and child support payments, and for related purposes

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A New Tax System (Fringe Benefits Reporting) Act 1999

No. 17, 1999

An Act to implement A New Tax System by providing for employees' fringe benefits to be taken into account in working out their tax, higher education contributions and child support payments, and for related purposes

[Assented to 19 April 1999]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *A New Tax System (Fringe Benefits Reporting) Act 1999*.

2 Commencement

- (1) This Act commences on the day on which it receives the Royal Assent.
- (2) However, item 14 of Schedule 2 commences on the 28th day after the day on which this Act receives the Royal Assent.

3 Schedule(s)

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendment of fringe benefits tax legislation

Fringe Benefits Tax Assessment Act 1986

1 After Part II

Insert:

Part IIA—Core provisions

Division 1—Working out an employer’s fringe benefits taxable amount

5A Simplified outline of this Division

The following is a simplified outline of this Division:

This Division explains how to work out an employer’s fringe benefits taxable amount for a year of tax. This is the amount on which the employer must pay fringe benefits tax (see section 66).

5B Working out an employer’s *fringe benefits taxable amount*

- (1) An employer’s *fringe benefits taxable amount* for a year of tax is the amount worked out using the formula:

$$\text{Employer's aggregate fringe benefits amount for the year of tax} \times \frac{1}{1 - \text{Rate of tax for the year of tax}}$$

Note: Other provisions affect the fringe benefits taxable amount. For example, see section 124 (about assessments).

- (2) Subsection (1) is subject to section 135G.

Note: Section 135G allows the fringe benefits taxable amount to be worked out using the employer’s aggregate fringe benefits amount from an earlier year of tax in special cases.

Division 2—Working out an employer’s aggregate fringe benefits amount

5C Aggregate fringe benefits amount

Work out an employer’s *aggregate fringe benefits amount* for a year of tax as follows:

Method statement

Step 1. Work out under Division 3 for each of the employer’s employees the individual fringe benefits amount for the year of tax in respect of the employment of the employee by the employer.

Step 2. Add up all the individual fringe benefits amounts worked out under Step 1.

Step 3. Add up the taxable value of every excluded fringe benefit (other than an amortised fringe benefit) relating to an employee of the employer, the employer and the year of tax.

Note: Subsection 5E(3) explains what is an excluded fringe benefit.

Step 4. Add the total from Step 2 to the total from Step 3.

Note: The result of Step 4 is the employer’s aggregate fringe benefits amount if there are no amortised fringe benefits or reducible fringe benefits in relation to the employer.

Step 5. Add to the total from Step 4 the amortised amount for the year of tax of each amortised fringe benefit (if any) relating to an employee of the employer, the employer and any year of tax.

Step 6. Subtract from the total from Step 5 the reduction amount for the year of tax of each reducible fringe benefit (if any) relating to an employee of the employer, the employer and the year of tax.

Note: Other provisions may affect the aggregate fringe benefits amount. For example, see section 67 (about arrangements to avoid or reduce tax), section 135L (about reducing the aggregate fringe benefits amount of an employer who is in business for only part of a year of tax) and section 152B (about entertainment facility leasing expenses).

Division 3—Employee’s individual fringe benefits amount

5D Simplified outline

The following is a simplified outline of this Division:

An employee’s individual fringe benefits amount is the employee’s share of the taxable value of fringe benefits (with some exclusions) provided in respect of his or her employment.

5E Employee’s individual fringe benefits amount

Overview

- (1) This section explains how to work out an employee’s ***individual fringe benefits amount*** for a year of tax in respect of the employee’s employment by an employer.

General rule

- (2) The ***individual fringe benefits amount*** is the sum of the employee’s share of the taxable value of each fringe benefit that relates to the year of tax and is provided in respect of the employment other than an excluded fringe benefit.

What is an excluded fringe benefit?

- (3) An ***excluded fringe benefit*** is a fringe benefit:
 - (a) constituted by the provision of meal entertainment (as defined in section 37AD, whether or not the employer has elected that Division 9A of Part III apply to the employer); or
 - (b) that is a car parking fringe benefit (see subsection 136(1)); or
 - (c) whose taxable value is wholly or partly attributable to entertainment facility leasing expenses; or

- (d) that is a remote area housing fringe benefit (see subsection 136(1)); or
- (e) whose taxable value is worked out under section 59 (about remote area residential fuel); or
- (f) whose taxable value is reduced under section 60 (about remote area housing); or
- (g) that is an amortised fringe benefit (see subsection 136(1)); or
- (h) that is a reducible fringe benefit (see subsection 136(1)); or
- (i) that is a benefit prescribed by the regulations for the purposes of this paragraph; or
- (j) that relates to occasional travel to a major population centre in Australia provided to employees and family members resident in a location that is not in or adjacent to an eligible urban area; or
- (k) that relates to freight costs for foodstuffs provided to employees resident in a location that is not in or adjacent to an eligible urban area.

If section 135G applies to the employer

- (4) If:
- (a) section 135G applies for working out the employer's liability to pay tax for the year of tax; and
 - (b) one or more fringe benefits are provided in relation to the year of tax in respect of the employee's employment by the employer;

the employee's ***individual fringe benefits amount*** is the amount determined by the employer in writing. This subsection has effect despite subsection (2).

Note: Section 135G allows use of the employer's aggregate fringe benefits amount for an earlier year of tax in working out the employer's liability for tax for the current year of tax.

Determining individual fringe benefits amounts

- (5) In making a determination under subsection (4), the employer must:
- (a) ensure that the total of the amount or amounts determined by the employer under that subsection for the year of tax equals

- the aggregate fringe benefits amount used for working out the employer's liability to pay tax for the year of tax; and
- (b) if that subsection applies to 2 or more of the employer's employees for the year of tax—act reasonably, having regard to the fringe benefit or fringe benefits provided in relation to the year of tax in respect of each employee's employment.

5F Working out the *employee's share*

Overview

- (1) This section explains how to work out an ***employee's share*** of the taxable value of a fringe benefit relating to the employee, an employer and a year of tax.

Individually-valued benefit provided in respect of one employee

- (2) The ***employee's share*** is 100% of the taxable value if:
 - (a) the fringe benefit was provided in respect of the employment of the employee by the employer and was not provided in respect of the employment of anyone else; and
 - (b) the taxable value of the fringe benefit was worked out for that particular fringe benefit (not merely as part of the total taxable value of fringe benefits in a class including that particular benefit).

Individually-valued benefit shared by 2 or more employees

- (3) The ***employee's share*** is so much of the taxable value as is reasonably attributable to the provision of the fringe benefit in respect of the employee's employment by the employer, taking account of any relevant matters, if:
 - (a) the fringe benefit was provided in respect of the employment of the employee by the employer and in respect of the employment of another employee; and
 - (b) the taxable value of the fringe benefit was worked out for that particular fringe benefit (not merely as part of the total taxable value of fringe benefits in a class including that particular benefit).

Benefits valued in aggregate

- (4) If:
- (a) the fringe benefit is one of a class of fringe benefits provided in respect of the employment of one or more employees by the employer; and
 - (b) the total taxable value of all the fringe benefits in the class is worked out by a single calculation;
- the *employee's share* of the taxable value of the fringe benefit is so much of the total taxable value as is reasonably attributable to the provision of the fringe benefit in respect of the employee's employment by the employer, taking account of any relevant matters.

Shares of different employees must total 100% of taxable value

- (5) If:
- (a) the fringe benefit was provided in respect of the employment of 2 or more employees; and
 - (b) each of those employees has an employee's share of the taxable value of the fringe benefit;
- the sum of those shares must equal the taxable value of the fringe benefit.

Single employee's shares must equal total taxable value

- (6) If all the fringe benefits in a class described in subsection (4) are provided in respect of the employment of the same employee (and none of them is provided in respect of the employment of anyone else), the sum of the employee's shares of the taxable value of the fringe benefits must equal the total taxable value of the fringe benefits.

2 After subsection 7(2)

Insert:

- (2A) Subsection (2) does not apply to a car that:
- (a) is used by an ambulance service, a firefighting service or a police service; and
 - (b) is visibly marked on its exterior for that use; and
-

(c) is fitted with:

- (i) a flashing warning light; and
- (ii) a horn, bell or alarm that can give audible warning of the approach or position of the car by making sounds with different amplitude, tones or frequencies on a regular time cycle.

3 Section 37BA (note)

Omit “subsection 136(1)”, substitute “section 5C”.

4 Subsection 37CB(1) (note)

Omit “subsection 136(1)”, substitute “section 5C”.

5 Before Part XII

Insert:

Part XIB—Reportable fringe benefits totals

135M Simplified outline of this Part

The following is a simplified outline of this Part:

An employee’s reportable fringe benefits total for a year of income is the sum of each of the employee’s reportable fringe benefits amounts for the year of income (see section 135N). (The total is taken into account under other Acts; for example in working out some income tax rebates, Medicare levy surcharge and superannuation surcharge and whether the employee must make a repayment of a debt under the *Higher Education Funding Act 1988*.)

An employee’s reportable fringe benefits amount from an employer is generally the grossed-up value of the employee’s individual fringe benefits amount from that employer (see section 135P).

Special rules apply for working out the employee’s reportable fringe benefits amount in respect of the employee’s employment if

the benefits provided in respect of the employment include exempt benefits under section 57A or 58 (about employment with public benevolent institutions and bodies providing care for sick, elderly or disadvantaged persons) (see section 135Q).

135N Employee's reportable fringe benefits total

An employee's **reportable fringe benefits total** for a year of income is the sum of each of the employee's reportable fringe benefits amounts for the year of income in respect of the employee's employment by an employer.

Example: Sylvia employs Angela, who has a reportable fringe benefits amount of \$3,000 for the 1999-2000 year of income from her employment by Sylvia.

Angela is also an employee of Geoff, and has a reportable fringe benefits amount of \$4,000 for that year of income from her employment by Geoff.

Angela's reportable fringe benefits total for the 1999-2000 year of income is \$7,000.

135P Employee's reportable fringe benefits amount—general rule

Does an employee have a reportable fringe benefits amount?

- (1) An employee has a **reportable fringe benefits amount** for a year of income in respect of the employee's employment by an employer if the employee's individual fringe benefits amount for the year of tax ending on 31 March in the year of income in respect of the employee's employment by the employer is more than \$1,000.

Example 1: On 31 May 1999, Sylvia waives a debt of \$1,545 that her employee Angela owes her, thus providing Angela with a debt waiver fringe benefit with a taxable value of \$1,545 for the year of tax ending on 31 March 2000. Angela has a reportable fringe benefits amount for the year of income ending on 30 June 2000 in respect of her employment by Sylvia.

Example 2: On 1 March 2000, Angela's employer Neil waives a debt of \$900 Angela owes him, providing Angela with a debt waiver fringe benefit with a taxable value of \$900 for the year of tax ending on 31 March 2000. However, he does not provide any other fringe benefits for that year of tax in respect of her employment, so Angela does not have a reportable fringe benefits amount for the year of income ending on 30 June 2000 in respect of her employment by Neil.

Size of the reportable fringe benefits amount

- (2) The **reportable fringe benefits amount** is the amount worked out using the formula:

$$\text{Individual fringe benefits amount} \times \frac{1}{1 - \text{Rate of tax for the year of tax}}$$

where:

individual fringe benefits amount is the employee's individual fringe benefits amount for the year of tax in respect of the employee's employment by the employer.

135Q Reportable fringe benefits amount for some employees of certain institutions

Overview

- (1) This section explains how to work out whether an employee has a reportable fringe benefits amount for a year of income in respect of the employee's employment by an employer described in section 57A or 58, and the size of that amount, if:
- (a) a benefit is provided in respect of the employee's employment by the employer; and
 - (b) the benefit is an exempt benefit because of one of those sections; and
 - (c) apart from those sections, the benefit would be a fringe benefit relating to the employee, the employer and the year of tax ending on 31 March in the employee's year of income.

Note: Section 57A deals with public benevolent institutions, and government bodies employing persons to work in hospitals that are public benevolent institutions. Section 58 deals with persons employed by government bodies, religious institutions and non-profit companies to care for the elderly or disadvantaged.

Does an employee have a reportable fringe benefits amount?

- (2) The employee has a **reportable fringe benefits amount** (worked out under subsection (4)) for the year of income in respect of the employee's employment by the employer if the sum of the following is more than \$1,000:

- (a) the employee's individual fringe benefits amount (if any) for the year of tax ending on 31 March in the year of income in respect of the employee's employment by the employer;
- (b) the employee's individual quasi-fringe benefits amount for the year of tax ending on 31 March in the year of income in respect of the employee's employment by the employer.

Note: An employee of an employer described in section 57A will not have an individual fringe benefits amount from that employer, because all benefits provided in respect of employment by that employer are exempt benefits.

What is the employee's individual quasi-fringe benefits amount?

- (3) The employee's **individual quasi-fringe benefits amount** is the amount that would be the employee's individual fringe benefits amount for the year of tax in respect of the employee's employment by the employer if:
 - (a) each benefit described in subsection (1) in relation to the employee, employer and year of tax were a fringe benefit; and
 - (b) there were no other fringe benefits relating to the employee, the employer and the year of tax.

Note: Section 5E explains how to work out the employee's individual fringe benefits amount for the year of tax.

Size of the reportable fringe benefits amount

- (4) The **reportable fringe benefits amount** is the amount worked out using the formula:

$$\left(\begin{array}{l} \text{Individual fringe} \\ \text{benefits amount} \end{array} + \begin{array}{l} \text{Individual} \\ \text{quasi - fringe} \\ \text{benefits amount} \end{array} \right) \times \frac{1}{1 - \text{Rate of tax}}$$

where:

individual fringe benefits amount is the employee's individual fringe benefits amount (if any) for the year of tax in respect of the employee's employment by the employer.

individual quasi-fringe benefits amount is the employee's individual quasi-fringe benefits amount for the year of tax in respect of the employee's employment by the employer.

rate of tax is the rate of tax for the year of tax.

Relationship with section 135P

(5) This section has effect despite section 135P.

6 Subsection 136(1) (definition of *aggregate fringe benefits amount*)

Repeal the definition, substitute:

aggregate fringe benefits amount has the meaning given by section 5C.

7 Subsection 136(1)

Insert:

employee's share of the taxable value of a fringe benefit has the meaning given by section 5F.

8 Subsection 136(1)

Insert:

excluded fringe benefit, in relation to an employee, employer and year of tax, has the meaning given by subsection 5E(3).

9 Subsection 136(1) (definition of *fringe benefits taxable amount*)

Omit "section 136AA", substitute "section 5B".

10 Subsection 136(1)

Insert:

individual fringe benefits amount for a year of tax in respect of the employment of an employee by an employer has the meaning given by section 5E.

11 Subsection 136(1)

Insert:

individual quasi-fringe benefits amount for a year of tax in respect of the employment of an employee by an employer has the meaning given by subsection 135Q(3).

12 Subsection 136(1)

Insert:

reportable fringe benefits amount for a year of income in respect of the employment of an employee by an employer has the meaning given by section 135P or 135Q (as appropriate).

13 Subsection 136(1)

Insert:

reportable fringe benefits total of an employee for a year of income has the meaning given by section 135N.

14 Section 136AA

Repeal the section.

15 Section 152B (note)

Omit “subsection 136(1)”, substitute “section 5C”.

16 Application of amendments

The amendments made by this Schedule apply in relation to the year of tax starting on 1 April 1999 and later years of tax.

***Fringe Benefits Tax (Application to the Commonwealth) Act
1986***

17 Title

After “tax”, insert, “, and for the application of the reportable fringe benefits system,”.

18 After section 2

Insert:

2A Objects

The objects of this Act are to provide for:

- (a) the notional application of fringe benefits tax in relation to benefits provided in respect of the employment of Commonwealth employees; and
- (b) the calculation of the reportable fringe benefits totals of those employees; and
- (c) the calculation of the reportable fringe benefits amounts of those employees in respect of that employment.

Schedule 2—Amendment of the Income Tax Assessment Act 1936

Part 1—Reporting reportable fringe benefits amounts and totals

Division 1—Reporting on group certificates

1 Subsection 6(1)

Insert:

reportable fringe benefits amount for a year of income in respect of an employee's employment by an employer has the same meaning as in the *Fringe Benefits Tax Assessment Act 1986* (as it applies of its own force or because of the *Fringe Benefits Tax (Application to the Commonwealth) Act 1986*).

2 Subsection 6(1)

Insert:

reportable fringe benefits total for a year of income for a person who is an employee (within the meaning of the *Fringe Benefits Tax Assessment Act 1986*) means the employee's reportable fringe benefits total (as defined in that Act) for the year of income.

3 At the end of subsection 221F(5B)

Add:

; and (d) the reportable fringe benefits amount (if any) for the year of income ending on 30 June in the same year in respect of the employment of the employee by the employer, reduced by so much of the amount (if any) as was set out in a previous group certificate.

4 At the end of subsection 221F(5C)

Add:

Note: Under subsection (5GA), the employer must also complete another group certificate form if the employee:

- ceased to be employed on or after 1 April in the period of the 12 months; and
- has a reportable fringe benefits amount from the employer for the year of income starting immediately after the end of the period of 12 months.

5 After subsection 221F(5CA)

Insert:

(5CAA) Subsection (5CA) does not apply if a reportable fringe benefits amount must be set out in the form for the group certificate under paragraph (5D)(d). This subsection does not limit the circumstances in which subsection (5CA) does not apply.

6 At the end of subsection 221F(5D)

Add:

; and (d) the reportable fringe benefits amount (if any) for the year of income ending on the 30 June mentioned in subsection (5C) in respect of the employment of the employee by the employer, reduced by so much of the amount (if any) as was set out in a previous group certificate.

7 Paragraphs 221F(5E)(a) and (b)

Omit “and”.

8 At the end of subsection 221F(5E)

Add:

; (d) the employee does not have a reportable fringe benefits amount in respect of the employee’s employment by the employer for the year of income ending on the 30 June on which the period of 12 months ended.

9 After subsection 221F(5G)

Insert:

(5GA) Subject to subsection (5H), an employer must complete a group certificate form in respect of an employee of the employer, if the employee:

- (a) ceased to be employed by the employer at any time after the start of 1 April and before the end of 30 June in a single year of income; and
 - (b) has a reportable fringe benefits amount for the next year of income in respect of the employee's employment by the employer.
- (5GB) In completing the form, the employer must set out (in addition to any other matter required by the form):
- (a) if the employee has, for the purposes of Part VA, quoted his or her tax file number in an employment declaration given to the employer—the tax file number; and
 - (b) the reportable fringe benefits amount mentioned in paragraph (5GA)(b), reduced by so much of the amount (if any) as was set out in a previous group certificate.
- (5GC) The employer must give the employee 2 copies of the form completed under subsection (5GA) no later than 14 July in the calendar year after the calendar year in which the employee ceased to be employed by the employer.
- Note: For employees described in subsection (5GA), the maximum time between the employee ceasing to be employed by the employer and the employer giving the employee copies of the group certificate will be no longer than 15 months and 2 weeks.
- (5GD) To avoid doubt, the requirement in subsection (5GA) for the employer to complete the form in respect of the employee is in addition to any requirement under subsection (5C) for the employer to complete a group certificate form in respect of the employee.

10 After paragraph 221F(5J)(a)

Insert:

- (aa) each group certificate completed by the employer and setting out all or part of a reportable fringe benefits amount for the year of income ending on 30 June in that year in respect of the employment of an employee by the employer; and

11 Subsection 221F(7)

After “(5D)”, insert “, (5GA) to (5GC)”.

12 Subsection 221F(15)

After “(5D)”, insert “, (5GA) to (5GC)”.

13 At the end of section 221F

Add:

- (16) This section applies in relation to a person who is an employee within the meaning of the *Fringe Benefits Tax Assessment Act 1986* as if the person were an employee for the purposes of this Division.

Note: Current, former and future employees are all employees within the meaning of the *Fringe Benefits Tax Assessment Act 1986*. A person is an employee under that Act if benefits are provided in respect of the person’s employment (even if the person does not actually receive salary or wages): see section 137 of that Act.

14 At the end of section 221F

Add:

- (17) This section applies in relation to an entity that is an employer for the purposes of the *Fringe Benefits Tax Assessment Act 1986* (as it applies of its own force or because of the *Fringe Benefits Tax (Application to the Commonwealth) Act 1986*) as if the entity were an employer for the purposes of this Division.

Note: Current, former and future employers are all employers within the meaning of the *Fringe Benefits Tax Assessment Act 1986*. A person is an employer under that Act if benefits are provided in respect of the person’s employment of someone else (even if the person pays no salary or wages): see section 137 of that Act.

15 Subsection 221H(1)

Repeal the subsection, substitute:

- (1) An employee who is given a group certificate that sets out:
- (a) salary or wages received by the employee in a year of income; or
 - (b) all or part of the employee’s reportable fringe benefits amount for a year of income in respect of the employee’s employment by an entity that is an employer for the purposes of the *Fringe Benefits Tax Assessment Act 1986* (as that Act

Schedule 2 Amendment of the Income Tax Assessment Act 1936
Part 1 Reporting reportable fringe benefits amounts and totals

applies of its own force or because of the *Fringe Benefits Tax (Application to the Commonwealth) Act 1986*);
must keep the group certificate for 5 years after the employee's assessment for the year of income.

Note: The heading to section 221H is altered by omitting "**Application**" and substituting "**Record-keeping and application**".

16 After subsection 221H(1A)

Insert:

(1AA) Subsections (1) and (1A) apply to a person who is an employee within the meaning of the *Fringe Benefits Tax Assessment Act 1986* as if the person were an employee for the purposes of this Division.

17 Application of amendments of sections 221F and 221H

The amendments of sections 221F and 221H of the *Income Tax Assessment Act 1936* made by this Division apply in relation to group certificate forms and group certificates setting out (or required to set out) information relating to the 1999-2000 year of income or a later year of income.

Division 2—Returns of reportable fringe benefits totals

18 Subsection 162(1)

After “fuller return,”, insert “of the person’s reportable fringe benefits total for a year of income or”.

19 Subsection 162(2)

After “to furnish a return,”, insert “or the person does not have a reportable fringe benefits total for the year of income,”.

20 Application of amendments

The amendments made by this Division apply in relation to reportable fringe benefits totals for the 1999-2000 year of income and later years of income.

Part 2—Effect of fringe benefits on deductions for superannuation contributions

21 Sub-subparagraph 82AAS(3)(b)(i)(A)

After “year of income”, insert “, or the person’s reportable fringe benefits total for the year of income,”.

22 Sub-subparagraph 82AAS(3)(b)(i)(A)

Omit “that were derived from”, substitute “attributable to”.

23 Sub-subparagraph 82AAS(3)(b)(i)(B)

Omit “person’s assessable income of the year of income”, substitute “total of the person’s assessable income of the year of income and reportable fringe benefits total (if any) for the year of income”.

24 Subparagraph 82AAS(3)(b)(ii)

After “year of income”, insert “, or the person’s reportable fringe benefits total for the year of income,”.

25 Subparagraph 82AAS(3)(b)(ii)

Omit “that was derived from”, substitute “attributable to”.

26 Application of amendments

The amendments made by this Part apply to assessments for the 1999-2000 year of income and later years of income.

Part 3—Effect of fringe benefits on rebate for personal superannuation contributions

27 Paragraph 159SZ(1)(c)

Repeal the paragraph, substitute:

- (c) the total of the following is less than \$31,000:
 - (i) the taxpayer's assessable income for the taxpayer's year of income;
 - (ii) the taxpayer's reportable fringe benefits total (if any) for the year of income.

28 Paragraph 159SZ(1)(d)

Omit "taxpayer's assessable income of the taxpayer's year of income", substitute "total mentioned in paragraph (c)".

29 Application of amendments

The amendments made by this Part apply to assessments for the 1999-2000 year of income and later years of income.

Part 4—Effect of fringe benefits on rebate for contributions to spouse's superannuation

30 Paragraph 159T(1)(c)

Repeal the paragraph, substitute:

- (c) the total of the following is less than \$13,800:
 - (i) the spouse's assessable income;
 - (ii) the spouse's reportable fringe benefits total (if any) for the year of income.

31 Paragraph 159T(2)(a)

Omit "spouse's assessable income of that year", substitute "total mentioned in paragraph (1)(c)".

32 Application of amendments

The amendments made by this Part apply to assessments for the 1999-2000 year of income and later years of income.

Part 5—Medicare levy surcharge on reportable fringe benefits total

33 Part VIIB (heading)

Repeal the heading, substitute:

Part VIIB—Medicare levy and Medicare levy surcharge

34 After subsection 251R(1)

Insert:

(1A) In this Part, unless the contrary intention appears:

surcharge means Medicare levy surcharge imposed by the *A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Act 1999*.

35 At the end of subsection 251R(7)

Add “and surcharge”

36 Subsection 251W(1)

After “levy”, insert “or surcharge”.

37 Section 251X

Repeal the section, substitute:

251X Notice of assessment to set out Medicare levy and surcharge

The notice of assessment to be served under section 174 on a taxpayer who must pay levy or surcharge for a year of income must specify the total of levy and surcharge (if any) payable by the taxpayer for the year of income.

38 At the end of Part VIIB

Add:

251Z Administration of Medicare levy surcharge Act

The Commissioner has the general administration of the *A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Act 1999*.

39 Application

The amendments made by this Part apply in relation to levy and surcharge payable in respect of the 1999-2000 year of income and later years of income.

40 Saving provision

The amendment of subsection 251W(1) of the *Income Tax Assessment Act 1936* made by this Schedule does not affect the validity of any regulations made for the purposes of that subsection that were in force immediately before the amendment.

Schedule 3—Effect of fringe benefits on higher education contributions

Higher Education Funding Act 1988

1 Subsection 106H(1) (definition of *HEC repayment income of a person*)

Repeal the definition.

2 Subsection 106H(1)

Insert:

HEC repayment income of a person means:

- (a) in relation to the year of income ending on 30 June 1996 or any preceding year of income—an amount equal to the taxable income of the person in respect of that year; and
- (b) in relation to the year of income ending on 30 June 1997—the sum of:
 - (i) the taxable income of the person in respect of that year; and
 - (ii) if, in respect of that year of income, a deduction has been allowed from the assessable income of the person under section 51 of the *Income Tax Assessment Act 1936* for interest on money borrowed by the person to finance rental property investments and that deduction or, if another deduction has been allowed (otherwise than for interest on money borrowed) from the assessable income of the person under that Act in respect of the rental property investments, the total of those deductions exceeds the rental income of the person—the amount of the excess; and
- (c) in relation to the 1997-98 or 1998-99 year of income—the sum of:
 - (i) the person's taxable income for that year of income; and
 - (ii) if the person has deducted under section 8-1 of the *Income Tax Assessment Act 1997* for that year of

income an amount for interest on money the person borrowed to finance rental property investments, and the total of that amount and any other amounts the person has deducted under that Act or the *Income Tax Assessment Act 1936* (otherwise than for interest on money borrowed) in respect of the rental property exceeds the rental income of the person—the amount of the excess; and

- (d) in relation to the 1999-2000 year of income or any later year of income—the sum of:
- (i) the person's taxable income for that year of income; and
 - (ii) if the person has deducted under section 8-1 of the *Income Tax Assessment Act 1997* for that year of income an amount for interest on money the person borrowed to finance rental property investments, and the total of that amount and any other amounts the person has deducted under that Act or the *Income Tax Assessment Act 1936* (otherwise than for interest on money borrowed) in respect of the rental property exceeds the rental income of the person—the amount of the excess; and
 - (iii) if the person is an employee (within the meaning of the *Fringe Benefits Tax Assessment Act 1986*) who has a reportable fringe benefits total (as defined in that Act) for the year of income—the reportable fringe benefits total for the year of income.

Schedule 4—Effect of fringe benefits on Medicare levy

Medicare Levy Act 1986

1 Subsection 3(1)

Insert:

reportable fringe benefits total of a person of a year of income has the same meaning as in the Assessment Act.

2 Subsection 3(2)

Omit “or taxable income” (twice occurring), substitute “, taxable income or reportable fringe benefits total”.

3 Subsections 8B(2) and 8C(3)

Omit “taxable income of a person”, substitute “total of a person’s taxable income and reportable fringe benefits total (if any)”.

4 Paragraphs 8D(3)(b) and (c)

Repeal the paragraphs, substitute:

- (b) the sum of the following exceeds the family surcharge threshold:
 - (i) the person’s taxable income;
 - (ii) the person’s reportable fringe benefits total (if any);
 - (iii) the person’s spouse’s taxable income;
 - (iv) the person’s spouse’s reportable fringe benefits total (if any); and
- (c) the total of the person’s taxable income and reportable fringe benefits total (if any) is more than \$13,389.

5 Paragraphs 8D(4)(a) and (b)

Repeal the paragraphs, substitute:

- (a) both of the following conditions are met if the person is married for the whole of the year of income:

- (i) the sum of the person's taxable income, the person's reportable fringe benefits total (if any), the person's spouse's taxable income and the person's spouse's reportable fringe benefits total (if any) is more than the family surcharge threshold;
- (ii) the total of the person's taxable income and reportable fringe benefits total (if any) is more than \$13,389; or
- (b) the total of the person's taxable income and reportable fringe benefits total (if any) is more than \$13,389, if the person is married for only some of the year of income.

6 Paragraph 8G(2)(b)

Repeal the paragraph, substitute:

- (b) the sum of the following exceeds the family surcharge threshold:
 - (i) the beneficiary's trust income;
 - (ii) the beneficiary's spouse's taxable income;
 - (iii) the beneficiary's spouse's reportable fringe benefits total (if any); and

7 Subparagraph 8G(3)(a)(i)

Repeal the subparagraph, substitute:

- (i) the sum of the beneficiary's trust income, the beneficiary's spouse's taxable income and the beneficiary's spouse's reportable fringe benefits total (if any) is more than the family surcharge threshold; and

8 Application

The amendments made by this Schedule apply for the purposes of working out the amount of Medicare levy payable on taxable income for the 1999-2000 year of income or a later year of income.

Schedule 5—Effect of fringe benefits on superannuation surcharge

Superannuation Contributions Tax (Assessment and Collection) Act 1997

1 Section 43 (at the end of the definition of *adjusted taxable income*)

Add:

- ; and (c) if the member is an employee (within the meaning of the *Fringe Benefits Tax Assessment Act 1986*) who has a reportable fringe benefits total (as defined in that Act) for the year of income comprising the financial year—the reportable fringe benefits total for the year of income.

Superannuation Contributions Tax (Members of Constitutionally Protected Funds) Assessment and Collection Act 1997

2 Section 38 (at the end of the definition of *adjusted taxable income*)

Add:

- ; and (c) if the member is an employee (within the meaning of the *Fringe Benefits Tax Assessment Act 1986*) who has a reportable fringe benefits total (as defined in that Act) for the year of income comprising the financial year—the reportable fringe benefits total for the year of income.

3 Application of amendments

The amendments made by this Schedule apply to calculations of adjusted taxable income for financial years starting on or after 1 July 1999.

Schedule 5 Effect of fringe benefits on superannuation surcharge

*[Minister's second reading speech made in—
House of Representatives on 2 December 1998
Senate on 10 December 1998]*

(207/98)