



A New Tax System (Bonuses for Older Australians) Act 1999

No. 67, 1999



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**An Act to implement A New Tax System by
providing bonus payments to older Australians,
and for related purposes**

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A New Tax System (Bonuses for Older Australians) Act 1999

No. 67, 1999

**An Act to implement A New Tax System by
providing bonus payments to older Australians,
and for related purposes**

[Assented to 8 July 1999]

The Parliament of Australia enacts:

Part 1—Preliminary

1 Short title

This Act may be cited as the *A New Tax System (Bonuses for Older Australians) Act 1999*.

Section 2

2 Commencement

- (1) This Act commences, or is taken to have commenced:
 - (a) after all the Acts listed in subsection (2) have received the Royal Assent; and
 - (b) on the day after the last day on which any of those Acts received the Royal Assent.
- (2) These are the Acts that must have received the Royal Assent for this Act to commence:
 - (a) the *A New Tax System (Goods and Services Tax) Act 1999*;
 - (b) the *A New Tax System (Goods and Services Tax Administration) Act 1999*;
 - (c) the *A New Tax System (Goods and Services Tax Imposition—Excise) Act 1999*;
 - (d) the *A New Tax System (Goods and Services Tax Imposition—Customs) Act 1999*;
 - (e) the *A New Tax System (Goods and Services Tax Imposition—General) Act 1999*.

3 Overview of Act

- (1) This Act provides for a one-off tax free bonus payment to be made to individuals. The bonus payment generally consists of 2 components:
 - (a) an aged persons savings bonus of up to \$1,000; and
 - (b) a self-funded retirees supplementary bonus of up to \$2,000.
- (2) The basic qualifications for the aged persons savings bonus are:
 - (a) an individual is aged 60 or more, and is an Australian resident, on 1 July 2000; and
 - (b) he or she has an income amount of less than \$30,000, and a savings and investment income amount, for 1998-1999 or 1999-2000.
- (3) The basic qualifications for the self-funded retirees supplementary bonus are:

Section 3

- (a) an individual is aged 55 or more, and is an Australian resident, on 1 July 2000; and
 - (b) he or she has an income amount of less than \$30,000, and a savings and investment income amount, for 1998-1999 or 1999-2000; and
 - (c) he or she has not received certain pensions or benefits during the period 1 April 2000 to 1 July 2000; and
 - (d) if the individual is a woman under 61¹/₂ or a man under 65:
 - (i) he or she has also not received those pensions or benefits during the rest of 1999-2000; and
 - (ii) he or she has business and wages income of \$1,000 or less for 1999-2000; and
 - (e) if the individual is 60 or more, his or her annual savings and investment income is more than \$1,000.
- (4) The bonus payment is reduced progressively for income amounts between \$20,000 and \$30,000.
- (5) An individual has to claim the payment. A decision on whether an individual is qualified for a bonus payment will be made by the Secretary to the Department of Family and Community Services, the Repatriation Commission or the Commissioner of Taxation, depending on whose customer or client the individual is.
- (6) These decisions are subject to review. For Family and Community Services customers, review is under the *Social Security Act 1991*. For Veterans' Affairs customers, review is under the *Veterans' Entitlements Act 1986*. For ATO clients, review is under the *Taxation Administration Act 1953*.

Part 2—Family and Community Services customers who qualify for bonus payment

Division 1—Interpretation

4 Definitions

In this Part, unless the contrary intention appears:

annual business and wages income has the meaning given by section 7.

annual retirement income has the meaning given by sections 5 and 6.

annual savings and investment income has the meaning given by sections 5 and 6.

Australian resident has the same meaning as in the *Social Security Act 1991*.

bereavement allowance has the same meaning as in the *Social Security Act 1991*.

business includes any profession, trade, employment, vocation or calling, but does not include occupation as an employee.

carer service pension has the same meaning as in the *Veterans' Entitlements Act 1986*.

deprived asset has the same meaning as in the *Social Security Act 1991*.

disqualifying payment means any of the following:

- (a) a social security pension (other than a bereavement allowance);
- (b) a social security benefit;
- (c) a service pension;

- (d) a carer service pension;
- (e) an income support supplement.

Family and Community Services customer has the meaning given by section 8.

financial asset has the same meaning as in the *Social Security Act 1991*.

financial investment has the same meaning as in the *Social Security Act 1991*.

income support supplement has the same meaning as in the *Veterans' Entitlements Act 1986*.

income tax return has the same meaning as in the *Income Tax Assessment Act 1997*.

income year has the same meaning as in the *Income Tax Assessment Act 1997*.

member of a couple has the same meaning as in the *Social Security Act 1991*.

partner has the same meaning as in the *Social Security Act 1991*.

proper claim has the meaning given by section 8.

qualifying year means the year commencing on 1 July 1998 or the year commencing on 1 July 1999.

salary and wages has the meaning given by section 10A of the *Social Security Act 1991*.

savings and investments includes financial investments.

Secretary means the Secretary to the Department.

service pension has the same meaning as in the *Veterans' Entitlements Act 1986*.

Section 5

social security benefit has the same meaning as in the *Social Security Act 1991*.

social security pension has the same meaning as in the *Social Security Act 1991*.

5 Annual retirement income and annual savings and investment income—customers with previous calculation of ordinary income on a yearly basis

- (1) This section applies to a Family and Community Services customer if, on one or more occasions in the period covered by the 2 qualifying years, the Secretary was required to work out the customer's ordinary income on a yearly basis for the purpose of determining the customer's entitlement to any payment under the *Social Security Act 1991*.
- (2) If the Secretary was required to work out the amount on only one such occasion, the customer's *annual retirement income* and *annual savings and investment income* for the purposes of this Part are worked out in accordance with subsections (3) and (4).
- (3) The customer's *annual retirement income* is the amount of the ordinary income on a yearly basis that would have been required to be worked out on the occasion if:
 - (a) any pension under Part II or IV, or a payment by way of allowance under Part VI, of the *Veterans' Entitlements Act 1986* paid to the customer were disregarded; and
 - (b) any application of section 1171 of the *Social Security Act 1991* were disregarded; and
 - (c) any payment under the *Social Security Act 1991*, to the extent that it was not exempt from income tax under the *Income Tax Assessment Act 1997*, were included in ordinary income; and
 - (d) any amount taken by Division 1B of Part 3.10 of the *Social Security Act 1991* to be ordinary income on a financial asset that is a deprived asset were disregarded; and

Note: Any actual return on the deprived asset is also disregarded: see subsection 1083(1) of the *Social Security Act 1991*.

Section 5

- (e) the customer were not a member of a couple.
- (4) The customer's **annual savings and investment income** is worked out as follows:

Method statement

- Step 1.* Work out under subsection (3) what would be the customer's annual retirement income if, in addition to making the assumptions in that subsection, it were assumed that the below threshold rate determined under subsection 1082(1) of the *Social Security Act 1991* were the same as the above threshold rate determined under subsection 1082(2) of that Act.
- Step 2.* Work out how much of the Step 1 amount is attributable to savings and investments. The result is the customer's **annual savings and investment income**.

- (5) If the Secretary was required to work out the customer's ordinary income on a yearly basis on 2 or more occasions during the period covered by the 2 qualifying years, the customer's **annual retirement income** and **annual savings and investment income** for the purposes of this Part are worked out as follows:

Method statement

- Step 1.* Apply subsections (3) and (4) to work out the 2 amounts for each of the occasions.
- Step 2.* Work out for each occasion the amount of bonus payment to which the customer would be entitled on the basis of the 2 amounts.
- Step 3.* The customer's **annual retirement income** and **annual savings and investment income** are the 2 amounts for any occasion that results in the greatest bonus payment

Section 6

or, if the bonus payments for all of the occasions are the same, the 2 amounts for any occasion.

6 Annual retirement income and annual savings and investment income—customers with no previous calculation of ordinary income on a yearly basis

- (1) If section 5 does not apply to a Family and Community Services customer, the customer's *annual retirement income* and *annual savings and investment income* for the purposes of this Part are worked out in accordance with this section.
- (2) The customer's *annual retirement income* is the customer's ordinary income on a yearly basis worked out:
 - (a) on the basis of the customer's circumstances at the time the Secretary first determines the customer's entitlement to a bonus payment under this Part; and
 - (b) by making the assumptions in paragraphs 5(3)(a) to (e).
- (3) The customer's *annual savings and investment income* is worked out as follows:

Method statement

- Step 1.* Work out under subsection (2) what would be the customer's annual retirement income if, in addition to making the assumptions in paragraphs 5(3)(a) to (e), it were assumed that the below threshold rate determined under subsection 1082(1) of the *Social Security Act 1991* were the same as the above threshold rate determined under subsection 1082(2) of that Act.
- Step 2.* Work out how much of the Step 1 amount is attributable to savings and investments. The result is the customer's *annual savings and investment income*.

7 Annual business and wages income

A Family and Community Services customer's ***annual business and wages income*** for the purposes of this Part is worked out as follows:

Method statement

- Step 1.* Work out what would be the customer's annual retirement income if it were worked out under subsection 6(2).
- Step 2.* Work out how much of the step 1 amount is attributable to income from a business carried on by the customer, or to salary and wages earned by the customer. The result is the customer's ***annual business and wages income***.

Division 2—Claim for bonus payment

8 Making a proper claim

(1) An individual who wants to be paid a bonus payment under this Part must make a proper claim for the payment.

- (2) A claim by an individual for a bonus payment under this Part is a *proper claim* if:
- (a) he or she is not required to lodge an income tax return for the 1999-2000 income year; and
 - (b) at the time of making the claim, he or she has not lodged an income tax return for that income year; and
 - (c) in the claim, he or she states that he or she does not intend to lodge an income tax return for that income year; and
 - (d) on 1 July 2000, he or she is not receiving a service pension, a carer service pension or an income support supplement; and
 - (e) the claim is made after 30 June 2000 and before 1 July 2001; and
 - (f) the claim is given to the Secretary in a form (which may be an electronic form), and in a manner, approved by the Secretary.
- (3) An individual who makes a proper claim is a *Family and Community Services customer*.

9 Proper claim can be withdrawn

- (1) A Family and Community Services customer can withdraw a proper claim that has not been determined.
- (2) A proper claim that is withdrawn is taken not to have been made.
- (3) A withdrawal may be made orally or in writing.

10 No further proper claim can be made

A Family and Community Services customer cannot make more than one proper claim for a bonus payment under this Part.

Section 11

Division 3—Qualification for bonus payment

11 Qualification for bonus payment

A Family and Community Services customer is qualified for a bonus payment under this Part if the customer is qualified for:

- (a) only the aged persons savings bonus component of the bonus payment; or
- (b) only the self-funded retirees supplementary bonus component of the bonus payment; or
- (c) the aged persons savings bonus component, and the self-funded retirees supplementary bonus component, of the bonus payment.

12 Qualification for components of bonus payment

Aged persons savings bonus component

- (1) A Family and Community Services customer is qualified for the aged persons savings bonus component of a bonus payment if:

- (a) he or she is aged 60 or more on 1 July 2000; and
- (b) he or she is an Australian resident on 1 July 2000; and
- (c) his or her annual retirement income is less than \$30,000 and he or she has annual savings and investment income; and

Note: The customer's annual retirement income and annual savings and investment income are worked out based on 2 qualifying years or the customer's circumstances at the time his or her bonus entitlement is determined under this Part: see sections 5 and 6.

- (d) the amount of the component, worked out under subsection 16(2), is greater than nil.

Section 12

Self-funded retirees supplementary bonus component—person aged over 61¹/₂ (woman) or over 65 (man)

- (2) A Family and Community Services customer is qualified for the self-funded retirees supplementary bonus component of a bonus payment if:
- (a) on 1 July 2000, he is aged 65 or more or she is aged 61¹/₂ or more; and
 - (b) he or she is an Australian resident on 1 July 2000; and
 - (c) his or her annual retirement income is less than \$30,000 and he or she has annual savings and investment income of more than \$1,000; and
 - (d) at least one of the following applies:
 - (i) he or she did not receive a disqualifying payment at any time during the period from the start of 1 April 2000 until the end of 1 July 2000;
 - (ii) he or she received a disqualifying payment during the period from the start of 1 April 2000 until the end of 30 June 2000, his or her partner died during that period and he or she is not receiving a disqualifying payment on 1 July 2000;
 - (iii) he or she received a disqualifying payment during the period from the start of 1 April 2000 until the end of 1 July 2000 in a circumstance prescribed by the regulations for the purposes of this subparagraph; and
 - (e) the amount of the self-funded retirees supplementary bonus component, worked out under subsection 16(3), is greater than nil.

Note: The customer's annual retirement income and annual savings and investment income are worked out based on either of 2 qualifying years or the customer's circumstances at the time his or her bonus entitlement is determined under this Part: see sections 5 and 6.

Section 12

Self-funded retirees supplementary bonus component—person aged between 55 and 61¹/₂ (woman) or 65 (man)

- (3) A Family and Community Services customer is qualified for the self-funded retirees supplementary bonus component of a bonus payment if:
- (a) on 1 July 2000:
 - (i) he or she is aged 55 or more; and
 - (ii) he is aged under 65 or she is aged under 61¹/₂; and
 - (b) he or she is an Australian resident on 1 July 2000; and
 - (c) his or her annual retirement income is less than \$30,000 and he or she has annual savings and investment income; and
 - (d) his or her annual business and wages income does not exceed \$1,000; and
 - (e) he or she did not receive a disqualifying payment at any time during the year beginning on 1 July 1999; and
 - (f) the amount of the self-funded retirees supplementary bonus component, worked out under whichever of subsections 16(3) and (4) applies, is greater than nil.

Note 1: The customer's annual retirement income and annual savings and investment income are worked out based on either of 2 qualifying years or the customer's circumstances at the time his or her bonus entitlement is determined under this Part: see sections 5 and 6.

Note 2: The customer's annual business and wages income is worked out based on the customer's circumstances at the time his or her bonus entitlement is determined under this Part: see section 7.

Division 4—Determination of proper claim

13 Secretary to determine proper claim

The Secretary must, in accordance with this Part, determine whether or not a proper claim is to be granted.

14 Grant of proper claim

- (1) The Secretary must determine that a proper claim is to be granted if the Secretary is satisfied that the Family and Community Services customer is qualified for a bonus payment under this Part.
- (2) The Secretary must give written notice of the determination to the customer. The notice must:
 - (a) state that he or she is qualified for a bonus payment; and
 - (b) specify the amount of the bonus payment and how it was worked out; and
 - (c) include a statement to the effect that he or she may apply for a review of the determination under section 1240 of the *Social Security Act 1991*, as applied by this Act.

Note: A determination that a Family and Community Services customer is qualified for a bonus payment under this Part is treated in the same way as a determination that a person is qualified for a pension bonus under the *Social Security Act 1991*: see section 19.

15 Refusal of proper claim

If the Secretary determines that a proper claim is not to be granted, the Secretary must give written notice of the determination to the Family and Community Services customer. The notice must:

- (a) state that he or she is not qualified for a bonus payment; and
- (b) state the reasons for the Secretary's determination; and
- (c) include a statement to the effect that he or she may apply for a review of the determination under section 1240 of the *Social Security Act 1991*, as applied by this Act.

Part 2 Family and Community Services customers who qualify for bonus payment

Division 4 Determination of proper claim

Section 15

Note: A determination that a Family and Community Services customer is not qualified for a bonus payment under this Part is treated in the same way as a determination that a person is not qualified for a pension bonus under the *Social Security Act 1991*: see section 19.

Division 5—Amount of bonus payment etc.

16 Amount of bonus payment

- (1) The amount of a Family and Community Services customer's bonus payment is:
- (a) if he or she is qualified for only the aged persons savings bonus component of the bonus payment—the amount of that component; or
 - (b) if he or she is qualified for only the self-funded retirees supplementary bonus component of the bonus payment—the amount of that component; or
 - (c) if he or she is qualified for both the aged persons savings bonus component and the self-funded retirees supplementary bonus component of the bonus payment—the sum of those components.

Aged persons savings bonus component

- (2) The aged persons savings bonus component of a bonus payment is worked out in accordance with the following table:

Amount of aged persons savings bonus component		
Item	If the Family and Community Services customer's annual retirement income is:	...the amount of the aged persons savings bonus component is equal to:
1	\$20,000 or less	his or her annual savings and investment income, up to a maximum of \$1,000
2	more than \$20,000 but less than \$30,000	(a) his or her annual savings and investment income, up to a maximum of \$1,000; less (b) the phasing out fraction (see subsection (6)) of the amount worked out under paragraph (a) of this item

Part 2 Family and Community Services customers who qualify for bonus payment

Division 5 Amount of bonus payment etc.

Section 16

Example: David has annual retirement income of \$23,000 and annual savings and investment income of \$1,500.

David's aged persons savings bonus component is worked out as follows.

David's annual savings and investment income of \$1,500 exceeds the maximum of \$1,000, so only \$1,000 is potentially allowable.

The phasing out fraction of the \$1,000 then needs to be subtracted. The fraction is:

$$\frac{\$23,000 - \$20,000}{\$10,000} = \frac{3}{10}$$

Therefore $\frac{3}{10}$ of \$1,000 (i.e. \$300) needs to be subtracted. This leaves an aged persons savings bonus component of \$700.

Self-funded retirees supplementary bonus component—person aged 60 or more

- (3) The self-funded retirees supplementary bonus component of a bonus payment for a Family and Community Services customer aged 60 or more is worked out in accordance with the following table:

Amount of self-funded retirees supplementary bonus component		
Item	If the Family and Community Services customer's annual retirement income is:	...the amount of the self-funded retirees supplementary bonus component is equal to:
1	\$20,000 or less	the amount, up to a maximum of \$2,000, by which his or her annual savings and investment income exceeds \$1,000
2	more than \$20,000 but less than \$30,000	(a) the amount, up to a maximum of \$2,000, by which his or her annual savings and investment income exceeds \$1,000; less (b) the phasing out fraction (see subsection (6)) of the amount worked out under paragraph (a) of this item

Section 16

Example: Kath, aged 63, has annual retirement income of \$24,000 and annual savings and investment income of \$5,000.

Kath's self-funded retirees supplementary bonus component is worked out as follows.

Kath's annual savings and investment income of \$5,000 exceeds the lower limit of \$1,000 by \$4,000, but this is only allowable up to a maximum of \$2,000.

The phasing out fraction of the \$2,000 then needs to be subtracted.
The fraction is:

$$\frac{\$24,000 - \$20,000}{\$10,000} = \frac{4}{10}$$

Therefore $\frac{4}{10}$ of \$2,000 (i.e. \$800) needs to be subtracted. This leaves a self-funded retirees supplementary bonus component of \$1,200.

Kath is also entitled to an aged persons savings bonus component of \$600: worked out under subsection (2).

Kath is entitled to a bonus payment of \$1,800.

Self-funded retirees supplementary bonus component—person aged under 60

- (4) The self-funded retirees supplementary bonus component of a bonus payment for a Family and Community Services customer aged under 60 is worked out in accordance with the following table:

Amount of self-funded retirees supplementary bonus component		
Item	If the Family and Community Services customer's annual retirement income is:	...the amount of the self-funded retirees supplementary bonus component is equal to:
1	\$20,000 or less	his or her annual savings and investment income, up to a maximum of \$2,000

Section 16

Amount of self-funded retirees supplementary bonus component

Item	If the Family and Community Services customer's annual retirement income is:	...the amount of the self-funded retirees supplementary bonus component is equal to:
2	more than \$20,000 but less than \$30,000	(a) his or her annual savings and investment income, up to a maximum of \$2,000; less (b) the phasing out fraction (see subsection (6)) of the amount worked out under paragraph (a) of this item

Example: Dawn, aged 59, has annual retirement income of \$24,000, all of which is annual savings and investment income.

Dawn's self-funded retirees supplementary bonus component is worked out as follows.

Dawn's savings and investment income of \$24,000 is only allowable up to a maximum of \$2,000.

The phasing out fraction of the \$2,000 then needs to be subtracted. The fraction is:

$$\frac{\$24,000 - \$20,000}{\$10,000} = \frac{4}{10}$$

Therefore $\frac{4}{10}$ of \$2,000 (i.e. \$800) needs to be subtracted. This leaves a self-funded retirees supplementary bonus component of \$1,200.

Bonus payments less than \$1 rounded up to \$1

- (5) If the amount of a Family and Community Services customer's bonus payment worked out under this section is greater than nil and less than \$1, the amount is rounded up to \$1.

Phasing out fraction

- (6) In this section:

phasing out fraction means the following fraction:

Section 17

Family and Community Services customer's annual retirement income	– \$20,000
<hr/>	
\$10,000	

17 Making of bonus payment

If the Secretary determines that a Family and Community Services customer's claim for a bonus payment is to be granted, the Secretary must, on behalf of the Commonwealth, make the bonus payment to the customer at such time, and in such manner, as the Secretary determines.

Note: Under the *Income Tax Assessment Act 1997*, a bonus payment is exempt from income tax.

Section 18

Division 6—Miscellaneous

18 General administration of Part

The Secretary has the general administration of this Part.

19 Application of Social Security Act

- (1) Except to the extent that provision is made in this Part, the *Social Security Act 1991* applies to:
 - (a) the making of a determination about whether to grant a proper claim for a bonus payment under this Part; and
 - (b) the making of any payment as a result of such a determination; and
 - (c) any other matter relating to such a determination or payment; in the same way as that Act applies to the making of determinations about, and payments of, pension bonus under that Act.
- (2) For the purposes of so applying the *Social Security Act 1991*:
 - (a) references in that Act to that Act itself are taken to include references to this Act; and
 - (b) any modifications of that Act that are prescribed by the regulations for the purposes of this section apply.

Note: This section means that the provisions of the *Social Security Act 1991* dealing with matters such as the following will apply:

- review of determinations;
- recovery of overpayments;
- delegation;
- information gathering;
- offences relating to false statements;
- evidentiary matters.

Part 3—Veterans' Affairs customers who qualify for bonus payment

Division 1—Interpretation

20 Definitions

In this Part, unless the contrary intention appears:

annual retirement income has the meaning given by sections 21 and 22.

annual savings and investment income has the meaning given by sections 21 and 22.

Australian resident has the same meaning as in the *Social Security Act 1991*.

carer service pension has the same meaning as in the *Veterans' Entitlements Act 1986*.

Commission means the Repatriation Commission continued in existence by section 179 of the *Veterans' Entitlements Act 1986*.

deprived asset has the same meaning as in the *Veterans' Entitlements Act 1986*.

financial asset has the same meaning as in the *Veterans' Entitlements Act 1986*.

financial investment has the same meaning as in the *Veterans' Entitlements Act 1986*.

income support supplement has the same meaning as in the *Veterans' Entitlements Act 1986*.

income tax return has the same meaning as in the *Income Tax Assessment Act 1997*.

Section 21

income year has the same meaning as in the *Income Tax Assessment Act 1997*.

member of a couple has the same meaning as in the *Veterans' Entitlements Act 1986*.

proper claim has the meaning given by section 23.

qualifying year means the year commencing on 1 July 1998 or the year commencing on 1 July 1999.

relevant income tax law means the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997*.

savings and investments includes financial investments.

service pension has the same meaning as in the *Veterans' Entitlements Act 1986*.

Veterans' Affairs customer has the meaning given by section 23.

21 Annual retirement income and annual savings and investment income—customers with previous calculation of ordinary income on a yearly basis

- (1) This section applies to a Veterans' Affairs customer if, on one or more occasions in the period covered by the 2 qualifying years, the Commission worked out the customer's ordinary income on a yearly basis for the purpose of determining the customer's entitlement to any payment under the *Veterans' Entitlements Act 1986*.
- (2) If the Commission worked out the amount on only one such occasion, the customer's **annual retirement income** and **annual savings and investment income** for the purposes of this Part are worked out in accordance with subsections (3) and (4).
- (3) The customer's **annual retirement income** is the amount of the ordinary income on a yearly basis that would have been worked out on the occasion if:

Section 21

- (a) any payment under the *Veterans' Entitlements Act 1986*, to the extent that it was not exempt from income tax under a relevant income tax law, were included in ordinary income; and
 - (b) any amount taken by Division 3 of Part IIIB of the *Veterans' Entitlements Act 1986* to be ordinary income on a financial asset that is a deprived asset were disregarded; and
- Note: Any actual return on the deprived asset is also disregarded: see subsection 46K(1) of the *Veterans' Entitlements Act 1986*.
- (c) the customer were not a member of a couple.
- (4) The customer's ***annual savings and investment income*** is worked out as follows:

Method statement

- Step 1.* Work out under subsection (3) what would be the customer's annual retirement income if, in addition to making the assumptions in that subsection, it were assumed that the below threshold rate (within the meaning of the *Veterans' Entitlements Act 1986*) were the same as the above threshold rate (within the meaning of that Act).
- Step 2.* Work out how much of the Step 1 amount is attributable to savings and investments. The result is the customer's ***annual savings and investment income***.

- (5) If the Commission worked out the customer's ordinary income on a yearly basis on 2 or more occasions during the period covered by the 2 qualifying years, the customer's ***annual retirement income*** and ***annual savings and investment income*** for the purposes of this Part are worked out as follows:

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Method statement

- Step 1.* Apply subsections (3) and (4) to work out the 2 amounts for each of the occasions.
- Step 2.* Work out for each occasion the amount of aged persons savings bonus payment to which the customer would be entitled on the basis of the 2 amounts.
- Step 3.* The customer's ***annual retirement income*** and ***annual savings and investment income*** are the 2 amounts for any occasion that results in the greatest bonus payment or, if the bonus payments for all of the occasions are the same, the 2 amounts for any occasion.

22 Annual retirement income and annual savings and investment income—customers with no previous calculation of ordinary income on a yearly basis

- (1) If section 21 does not apply to a Veterans' Affairs customer, the customer's ***annual retirement income*** and ***annual savings and investment income*** for the purposes of this Part are worked out in accordance with this section.
- (2) The customer's ***annual retirement income*** is the amount that would have been the customer's ordinary income on a yearly basis when last worked out by the Commission before the Commission first determines the customer's entitlement to an aged persons savings bonus payment under this Part if the assumptions in paragraphs 21(3)(a), (b) and (c) were made.
- (3) The customer's ***annual savings and investment income*** is worked out as follows:

Method statement

- Step 1.* Work out under subsection (2) what would be the customer's annual retirement income if, in addition to making the assumptions in paragraphs 21(3)(a), (b) and (c), it were assumed that the below threshold rate (within the meaning of the *Veterans' Entitlements Act 1986*) were the same as the above threshold rate (within the meaning of that Act).
- Step 2.* Work out how much of the Step 1 amount is attributable to savings and investments. The result is the customer's ***annual savings and investment income***.

Division 2—Claim for bonus payment

23 Making a proper claim

- (1) An individual who wants to be paid an aged persons savings bonus payment under this Part must make a proper claim for the payment.
- (2) A claim by an individual for an aged persons savings bonus payment under this Part is a *proper claim* if:
 - (a) he or she is not required to lodge an income tax return for the 1999-2000 income year; and
 - (b) at the time of making the claim, he or she has not lodged an income tax return for that income year; and
 - (c) in the claim, he or she states that he or she does not intend to lodge an income tax return for that income year; and
 - (d) on 1 July 2000, he or she is receiving a service pension, a carer service pension or an income support supplement; and
 - (e) the claim is made after 30 June 2000 and before 1 July 2001; and
 - (f) the claim is given to the Commission in a form, and in a manner, approved by the Commission.
- (3) An individual who makes a proper claim is a *Veterans' Affairs customer*.

24 Proper claim can be withdrawn

- (1) A Veterans' Affairs customer can withdraw a proper claim that has not been determined.
- (2) A proper claim that is withdrawn is taken not to have been made.
- (3) A withdrawal may be made orally or in writing.

25 No further proper claim can be made

A Veterans' Affairs customer cannot make more than one proper claim for a bonus payment under this Part.

Division 3—Qualification for bonus payment

26 Qualification for aged persons savings bonus payment

A Veterans' Affairs customer is qualified for an aged persons savings bonus payment under this Part if:

- (a) he or she is aged 60 or more on 1 July 2000; and
- (b) he or she is an Australian resident on 1 July 2000; and
- (c) his or her annual retirement income is less than \$30,000 and he or she has annual savings and investment income; and

Note: The customer's annual retirement income and annual savings and investment income are worked out based on 2 qualifying years or the customer's circumstances at another time: see sections 21 and 22.

- (d) the amount of the bonus payment, worked out under section 30, is greater than nil.

Division 4—Determination of proper claim

27 Commission to determine proper claim

The Commission must, in accordance with this Part, determine whether or not a proper claim is to be granted.

28 Grant of proper claim

- (1) The Commission must determine that a proper claim is to be granted if the Commission is satisfied that the Veterans' Affairs customer is qualified for an aged persons savings bonus payment under this Part.
- (2) The Commission must give written notice of the determination to the customer. The notice must:
 - (a) state that he or she is qualified for an aged persons savings bonus payment; and
 - (b) specify the amount of the bonus payment and how it was worked out; and
 - (c) include a statement to the effect that he or she may apply for a review of the determination under section 57 of the *Veterans' Entitlements Act 1986*, as applied by this Act.

Note: A determination that a Veterans' Affairs customer is qualified for an aged persons savings bonus payment under this Part is treated in the same way as a determination that a person is qualified for a pension bonus under the *Veterans' Entitlements Act 1986*: see section 33.

29 Refusal of proper claim

If the Commission determines that a proper claim is not to be granted, the Commission must give written notice of the determination to the Veterans' Affairs customer. The notice must:

- (a) state that he or she is not qualified for an aged persons savings bonus payment; and
- (b) state the reasons for the Commission's determination; and

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Division 4 Determination of proper claim

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- (c) include a statement to the effect that he or she may apply for a review of the determination under section 57 of the *Veterans' Entitlements Act 1986*, as applied by this Act.

Note: A determination that a Veterans' Affairs customer is not qualified for an aged persons savings bonus payment under this Part is treated in the same way as a determination that a person is not qualified for a pension bonus under the *Veterans' Entitlements Act 1986*: see section 33.

Division 5—Amount of bonus payment etc.

30 Amount of bonus payment

- (1) The amount of a Veterans' Affairs customer's aged persons savings bonus payment is worked out in accordance with the following table:

Amount of aged persons savings bonus payment		
Item	If the Veterans' Affairs customer's annual retirement income is:	...the amount of the aged persons savings bonus payment is equal to:
1	\$20,000 or less	his or her annual savings and investment income, up to a maximum of \$1,000
2	more than \$20,000 but less than \$30,000	(a) his or her annual savings and investment income, up to a maximum of \$1,000; less (b) the phasing out fraction (see subsection (3)) of the amount worked out under paragraph (a) of this item

Example: Ruth has annual retirement income of \$23,000 and annual savings and investment income of \$1,500.

Ruth's aged persons savings bonus payment is worked out as follows.

Ruth's annual savings and investment income of \$1,500 exceeds the maximum of \$1,000, so only \$1,000 is potentially allowable.

The phasing out fraction of the \$1,000 then needs to be subtracted.
The fraction is:

$$\frac{\$23,000 - \$20,000}{\$10,000} = \frac{3}{10}$$

Therefore $\frac{3}{10}$ of \$1,000 (i.e. \$300) needs to be subtracted. This leaves an aged persons savings bonus payment of \$700.

Part 3 Veterans' Affairs customers who qualify for bonus payment

Division 5 Amount of bonus payment etc.

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Bonus payments less than \$1 rounded up to \$1

- (2) If the amount of a Veterans' Affairs customer's aged persons savings bonus payment worked out under this section is greater than nil and less than \$1, the amount is rounded up to \$1.

Phasing out fraction

- (3) In this section:

phasing out fraction means the following fraction:

$$\frac{\text{Veterans' Affairs customer's annual retirement income} - \$20,000}{\$10,000}$$

31 Making of bonus payment

If the Commission determines that a Veterans' Affairs customer's claim for an aged persons savings bonus payment is to be granted, the Commission must, on behalf of the Commonwealth, make the bonus payment to the customer at such time, and in such manner, as the Commission determines.

Note: Under the *Income Tax Assessment Act 1997*, an aged persons savings bonus payment is exempt from income tax.

Division 6—Miscellaneous

32 General administration of Part

The Commission has the general administration of this Part.

33 Application of Veterans' Entitlements Act

- (1) Except to the extent that provision is made in this Part, the *Veterans' Entitlements Act 1986* applies to:
 - (a) the making of a determination about whether to grant a proper claim for an aged persons savings bonus payment under this Part; and
 - (b) the making of any payment as a result of such a determination; and
 - (c) any other matter relating to such a determination or payment; in the same way as that Act applies to the making of determinations about, and payments of, pension bonus under that Act.
- (2) For the purposes of so applying the *Veterans' Entitlements Act 1986*:
 - (a) references in that Act to that Act itself are taken to include references to this Act; and
 - (b) any modifications of that Act that are prescribed by the regulations for the purposes of this section apply.

Note: This section means that the provisions of the *Veterans' Entitlements Act 1986* dealing with matters such as the following will apply:

- review of determinations;
- recovery of overpayments;
- delegation;
- information gathering;
- offences relating to false statements;
- evidentiary matters.

Part 4—ATO clients who qualify for bonus payment

Division 1—Interpretation

34 Definitions

In this Part, unless the contrary intention appears:

adjusted business and wages income has the meaning given by section 36.

adjusted savings and investment income has the meaning given by section 35.

assessable income has the same meaning as in the *Income Tax Assessment Act 1997*.

assessable recoupment has the same meaning as in the *Income Tax Assessment Act 1997*.

assessment has the same meaning as in the *Income Tax Assessment Act 1997*.

ATO client has the meaning given by section 37.

Australian resident has the same meaning as in the *Social Security Act 1991*.

Australian source has the same meaning as in the *Income Tax Assessment Act 1997*.

bereavement allowance has the same meaning as in the *Social Security Act 1991*.

business includes any profession, trade, employment, vocation or calling, but does not include occupation as an employee.

business and wages income has the meaning given by section 36.

carer service pension has the same meaning as in the *Veterans' Entitlements Act 1986*.

Commissioner means the Commissioner of Taxation.

complying superannuation fund has the same meaning as in the *Income Tax Assessment Act 1997*.

deduction has the same meaning as in the *Income Tax Assessment Act 1997*.

derive has the same meaning as in the *Income Tax Assessment Act 1997*.

disqualifying payment means any of the following:

- (a) a social security pension (other than a bereavement allowance);
- (b) a social security benefit;
- (c) a service pension;
- (d) a carer service pension;
- (e) an income support supplement.

income support supplement has the same meaning as in the *Veterans' Entitlements Act 1986*.

income tax return has the same meaning as in the *Income Tax Assessment Act 1997*.

income year has the same meaning as in the *Income Tax Assessment Act 1997*.

partner has the same meaning as in the *Social Security Act 1991*.

PAYE earnings has the same meaning as in the *Income Tax Assessment Act 1997*.

proper claim has the meaning given by section 37.

qualifying year means the 1998-1999 income year or the 1999-2000 income year.

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RSA has the same meaning as in the *Income Tax Assessment Act 1997*.

savings and investment income has the meaning given by section 35.

service pension has the same meaning as in the *Veterans' Entitlements Act 1986*.

social security benefit has the same meaning as in the *Social Security Act 1991*.

social security pension has the same meaning as in the *Social Security Act 1991*.

taxable income has the same meaning as in the *Income Tax Assessment Act 1997*.

35 Adjusted savings and investment income

- (1) In this Part, an individual's **adjusted savings and investment income** for a qualifying year is worked out as follows:

Method statement

- Step 1.** Work out the individual's savings and investment income for the year: see subsections (3) and (4).
- Step 2.** Add to the Step 1 amount any contributions to a complying superannuation fund or an RSA (retirement savings account) that the individual made during the year to get superannuation benefits for himself or herself, or for his or her dependants in the event of his or her death.
- Step 3.** Subtract from the Step 2 amount the sum of the individual's deductions for the year, to the extent that the deductions relate to any or all of his or her savings and investment income.

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- Step 4.* Subtract from the Step 3 amount any amount that the individual can deduct under section 82AAT of the *Income Tax Assessment Act 1936*, as specified in a notice that he or she gives under that section, for the contributions counted at Step 2.
- Step 5.* If the final result is nil or negative, the individual does not have any adjusted savings and investment income.

Deductions unrelated to any particular income

- (2) To avoid doubt, deductions that are not related to the derivation by the individual of any particular amount of savings and investment income are not subtracted under Step 3 of the Method statement in subsection (1).

Example: A deduction under Division 30 of the *Income Tax Assessment Act 1997* for a gift the individual makes to a charity is not related to any particular savings and investment income of the individual. Therefore, it is not subtracted under Step 3.

Savings and investment income

- (3) In this Part, an individual's **savings and investment income** is the sum of the following:
- (a) all of the individual's assessable income that is not PAYE earnings;
 - (b) any amount paid to the individual that is included in the individual's assessable income and that is covered by paragraph (c) of the definition of **salary or wages** in subsection 221A(1) of the *Income Tax Assessment Act 1936*, so long as:
 - (i) the payment is from an Australian source and is not a rebatable benefit, or a rebatable pension, within the meaning of section 160AAA of that Act or a payment of the kind mentioned in subsection 52-105(2) of the *Income Tax Assessment Act 1997*; or
 - (ii) the payment is not from an Australian source and there is or has been a deductible amount in relation to the

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annuity concerned within the meaning of section 27H of the *Income Tax Assessment Act 1936*;

Note: This basically covers annuities and pensions etc. that the individual purchased.

- (c) so much of the amount of any eligible termination payment (as defined in section 27A of the *Income Tax Assessment Act 1936*) made to the individual as is included in the individual's assessable income under section 27B or 27C of that Act.

- (4) However, an individual's savings and investment income does not include the following amounts:

- (a) payments covered by paragraph (pa) of the definition of **salary or wages** in subsection 221A(1) of the *Income Tax Assessment Act 1936*;

Note: That paragraph covers payments by way of remuneration or allowances to members of certain local government bodies.

- (b) assessable recoupments of amounts deductible under section 25-5 of the *Income Tax Assessment Act 1997* or section 69 of the *Income Tax Assessment Act 1936*;

Note: Those 2 sections basically deal with tax-related expenses.

- (c) assessable recoupments of amounts deductible under section 25-60 of the *Income Tax Assessment Act 1997* or section 74 of the *Income Tax Assessment Act 1936*.

Note: Those 2 sections basically deal with election expenses.

36 Adjusted business and wages income

- (1) In this Part, an individual's **adjusted business and wages income** for the 1999-2000 income year is worked out as follows:

Method statement

Step 1. Work out the individual's business and wages income for the year: see subsections (2) and (3).

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- Step 2.* Subtract from the step 1 amount the sum of the individual's deductions for the year, to the extent that the deductions relate to any or all of his or her business and wages income.
- Step 3.* If the final result is nil or negative, the individual does not have any adjusted business and wages income.

- (2) In this Part, an individual's ***business and wages income*** is the sum of the following:
- (a) all of the individual's assessable income that is PAYE earnings;
 - (b) all of the individual's assessable income (other than PAYE earnings) derived from a business carried on by the individual.
- (3) However, an individual's business and wages income does not include the following amounts:
- (a) any amount paid to the individual that is included in the individual's assessable income and that is covered by paragraph (c) of the definition of ***salary or wages*** in subsection 221A(1) of the *Income Tax Assessment Act 1936*;
 - (b) so much of the amount of any eligible termination payment (as defined in section 27A of the *Income Tax Assessment Act 1936*) made to the individual as is included in the individual's assessable income under section 27B or 27C of that Act.

Division 2—Claim for bonus payment

37 Making a proper claim

- (1) An individual who wants to be paid a bonus payment under this Part must make a proper claim for the payment.
- (2) A claim by an individual for a bonus payment under this Part is a ***proper claim*** if:
 - (a) either:
 - (i) he or she is required to lodge an income tax return for the 1999-2000 income year; or
 - (ii) he or she is not required to lodge an income tax return for that income year, but lodges such a return and makes the claim at the same time or afterwards, provided that he or she had not made a proper claim for a bonus payment under Part 2 or 3 before lodging the return; and
 - (b) the claim is made after 30 June 2000 and before 1 July 2001; and
 - (c) the claim specifies either 1 qualifying year, or both qualifying years, in respect of which the individual claims he or she is qualified for a bonus payment; and
 - (d) the claim is in a form (which may be an electronic form) approved by the Commissioner; and
 - (e) the claim is sent to or lodged at an office of, or a place approved by, the Commissioner.
- (3) An individual who makes a proper claim is an ***ATO client***.
- (4) If the claim specifies 1 qualifying year in respect of which the ATO client claims he or she is qualified for a bonus payment, he or she cannot later vary the claim to specify the other qualifying year.

38 Proper claim can be withdrawn

- (1) An ATO client can withdraw a proper claim that has not been determined.
- (2) A proper claim that is withdrawn is taken not to have been made.
- (3) A withdrawal may only be made by writing, or in a form (which may be an electronic form) approved by the Commissioner, sent to or lodged at an office of, or a place approved by, the Commissioner.

39 No further proper claim can be made

An ATO client cannot make more than one proper claim for a bonus payment under this Part.

Division 3—Qualification for bonus payment

40 Qualification for bonus payment

An ATO client is qualified for a bonus payment under this Part if he or she is qualified for:

- (a) only the aged persons savings bonus component of the bonus payment; or
- (b) only the self-funded retirees supplementary bonus component of the bonus payment; or
- (c) the aged persons savings bonus component, and the self-funded retirees supplementary bonus component, of the bonus payment.

41 Qualification for components of bonus payment

Aged persons savings bonus component

- (1) An ATO client is qualified for the aged persons savings bonus component of a bonus payment if:
 - (a) he or she is aged 60 or more on 1 July 2000; and
 - (b) he or she is an Australian resident on 1 July 2000; and
 - (c) his or her taxable income as shown in his or her assessment is less than \$30,000, and he or she has adjusted savings and investment income, for the qualifying year, or for either or each of the qualifying years, specified in the claim; and
 - (d) the amount of the component, worked out under subsection 45(4), is greater than nil.

Self-funded retirees supplementary bonus component—person aged over 61½ (woman) or over 65 (man)

- (2) An ATO client is qualified for the self-funded retirees supplementary bonus component of a bonus payment if:
 - (a) on 1 July 2000, he is aged 65 or more or she is aged 61½ or more; and

- (b) he or she is an Australian resident on 1 July 2000; and
- (c) his or her taxable income as shown in his or her assessment for the qualifying year, or for either or each of the qualifying years, is less than \$30,000, and he or she has adjusted savings and investment income of more than \$1,000, for that year or those years; and
- (d) at least one of the following applies:
 - (i) he or she did not receive a disqualifying payment at any time during the period from the start of 1 April 2000 until the end of 1 July 2000;
 - (ii) he or she received a disqualifying payment during the period from the start of 1 April 2000 until the end of 30 June 2000, his or her partner died during that period and he or she is not receiving a disqualifying payment on 1 July 2000;
 - (iii) he or she received a disqualifying payment during the period from the start of 1 April 2000 until the end of 1 July 2000 in a circumstance prescribed by the regulations for the purposes of this subparagraph; and
- (e) the amount of the self-funded retirees supplementary bonus component, worked out under subsection 45(5), is greater than nil.

Self-funded retirees supplementary bonus component—person aged between 55 and 61¹/₂ (woman) or 65 (man)

- (3) An ATO client is qualified for the self-funded retirees supplementary bonus component of a bonus payment if:
 - (a) on 1 July 2000:
 - (i) he or she is aged 55 or more; and
 - (ii) he is aged under 65 or she is aged under 61¹/₂; and
 - (b) he or she is an Australian resident on 1 July 2000; and
 - (c) his or her taxable income as shown in his or her assessment for the qualifying year, or for either or each of the qualifying years, is less than \$30,000, and he or she has annual adjusted savings and investment income for that year or those years; and
-

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Division 3 Qualification for bonus payment

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- (d) his or her adjusted business and wages income for the 1999-2000 income year does not exceed \$1,000; and
- (e) he or she did not receive a disqualifying payment at any time during the 1999-2000 income year; and
- (f) the amount of the self-funded retirees supplementary bonus component, worked out under whichever of subsections 45(5) and (6) applies, is greater than nil.

Division 4—Determination of proper claim

42 Commissioner to determine proper claim

The Commissioner must, in accordance with this Part, determine whether or not a proper claim is to be granted.

43 Grant of proper claim

- (1) The Commissioner must determine that a proper claim is to be granted if the Commissioner is satisfied that the ATO client is qualified for a bonus payment under this Part.
- (2) The Commissioner must give written notice of the determination to the ATO client. The notice must:
 - (a) state that he or she is qualified for a bonus payment; and
 - (b) specify the qualifying year or qualifying years in respect of which he or she is so qualified; and
 - (c) specify the amount of the bonus payment and how it was worked out; and
 - (d) state that he or she may object against the determination in the manner set out in Part IVC of the *Taxation Administration Act 1953*.

44 Refusal of proper claim

If the Commissioner determines that a proper claim is not to be granted, the Commissioner must give written notice of the determination to the ATO client. The notice must:

- (a) state that he or she is not qualified for a bonus payment; and
- (b) state the reasons for the Commissioner's determination; and
- (c) state that he or she may object against the determination in the manner set out in Part IVC of the *Taxation Administration Act 1953*.

Division 5—Amount of bonus payment etc.

45 Amount of bonus payment

Client qualified for bonus payment for 1 qualifying year

- (1) If the Commissioner is satisfied that an ATO client is qualified for a bonus payment in respect of 1 qualifying year, the client is entitled to the amount of the bonus payment worked out in respect of that year.

Client qualified for bonus payment for both qualifying years

- (2) If the Commissioner is satisfied that an ATO client is qualified for a bonus payment in respect of both qualifying years:
- (a) the Commissioner must work out the amount of the bonus payment in respect of each qualifying year; and
 - (b) the client is entitled to:
 - (i) the higher of those amounts; or
 - (ii) if those amounts are equal—one of those amounts.

Amount of bonus payment

- (3) The amount of an ATO client's bonus payment in respect of a qualifying year is:
- (a) if he or she is qualified for only the aged persons savings bonus component of the bonus payment—the amount of that component; or
 - (b) if he or she is qualified for only the self-funded retirees supplementary bonus component of the bonus payment—the amount of that component; or
 - (c) if he or she is qualified for both the aged persons savings bonus component and the self-funded retirees supplementary bonus component of the bonus payment—the sum of those components.

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Aged persons savings bonus component

- (4) The aged persons savings bonus component of a bonus payment for a qualifying year is worked out in accordance with the following table:

Amount of aged persons savings bonus component		
Item	If the ATO client's taxable income as shown in his or her assessment for the qualifying year is:	...the amount of the aged persons savings bonus component is equal to:
1	\$20,000 or less	his or her adjusted savings and investment income for that year, up to a maximum of \$1,000
2	more than \$20,000 but less than \$30,000	(a) his or her adjusted savings and investment income for that year, up to a maximum of \$1,000; less (b) the phasing out fraction (see subsection (8)) of the amount worked out under paragraph (a) of this item

Example: For the 1998-1999 income year Malcolm has an assessed taxable income of \$23,000 and adjusted savings and investment income of \$1,500.

Malcolm's aged persons savings bonus component is worked out as follows.

Malcolm's adjusted savings and investment income of \$1,500 exceeds the maximum of \$1,000, so only \$1,000 is potentially allowable.

The phasing out fraction of the \$1,000 then needs to be subtracted. The fraction is:

$$\frac{\$23,000 - \$20,000}{\$10,000} = \frac{3}{10}$$

Therefore $\frac{3}{10}$ of \$1,000 (i.e. \$300) needs to be subtracted. This leaves an aged persons savings bonus component of \$700.

Part 4 ATO clients who qualify for bonus payment

Division 5 Amount of bonus payment etc.

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Self-funded retirees supplementary bonus component—person aged over 60

- (5) The self-funded retirees supplementary bonus component of a bonus payment for an ATO client aged 60 or more for a qualifying year is worked out in accordance with the following table:

Amount of self-funded retirees supplementary bonus component		
Item	If the ATO client's taxable income as shown in his or her assessment for the qualifying year is:	...the amount of the self-funded retirees supplementary bonus component is equal to:
1	\$20,000 or less	the amount, up to a maximum of \$2,000, by which his or her adjusted savings and investment income for that year exceeds \$1,000
2	more than \$20,000 but less than \$30,000	(a) the amount, up to a maximum of \$2,000, by which his or her adjusted savings and investment income for that year exceeds \$1,000; less (b) the phasing out fraction (see subsection (8)) of the amount worked out under paragraph (a) of this item

Example: For the 1999-2000 income year Joan, aged 63, has an assessed taxable income of \$24,000 and adjusted savings and investment income of \$5,000.

Joan's self-funded retirees supplementary bonus component is worked out as follows.

Joan's adjusted savings and investment income of \$5,000 exceeds the lower limit of \$1,000 by \$4,000, but this is only allowable up to a maximum of \$2,000.

The phasing out fraction of the \$2,000 then needs to be subtracted. The fraction is:

$$\frac{\$24,000 - \$20,000}{\$10,000} = \frac{4}{10}$$

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Therefore $\frac{4}{10}$ of \$2,000 (i.e. \$800) needs to be subtracted. This leaves a self-funded retirees supplementary bonus component of \$1,200.

Joan is also entitled to an aged persons savings bonus component of \$600: worked out under subsection (4).

Joan is entitled to a bonus payment of \$1,800.

Self-funded retirees supplementary bonus component—person aged under 60

- (6) The self-funded retirees supplementary bonus component of a bonus payment for an ATO client aged under 60 is worked out in accordance with the following table:

Amount of self-funded retirees supplementary bonus component		
Item	If the ATO client's taxable income as shown in his or her assessment for the qualifying year is:	...the amount of the self-funded retirees supplementary bonus component is equal to:
1	\$20,000 or less	his or her adjusted savings and investment income, up to a maximum of \$2,000
2	more than \$20,000 but less than \$30,000	(a) his or her adjusted savings and investment income, up to a maximum of \$2,000; less (b) the phasing out fraction (see subsection (8)) of the amount worked out under paragraph (a) of this item

Example: For the 1999-2000 income year Susan, aged 59, has an assessed taxable income of \$24,000, all of which is annual savings and investment income.

Susan's self-funded retirees supplementary bonus component is worked out as follows.

Susan's adjusted savings and investment income of \$24,000 is only allowable up to a maximum of \$2,000.

The phasing out fraction of the \$2,000 then needs to be subtracted. The fraction is:

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$$\frac{\$24,000 - \$20,000}{\$10,000} = \frac{4}{10}$$

Therefore $\frac{4}{10}$ of \$2,000 (i.e. \$800) needs to be subtracted. This leaves a self-funded retirees supplementary bonus component of \$1,200.

Bonus payments less than \$1 rounded up to \$1

- (7) If the amount of an ATO client's bonus payment worked out under this section is greater than nil and less than \$1, the amount is rounded up to \$1.

Phasing out fraction

- (8) In this section:

phasing out fraction means the following fraction:

$$\frac{\text{ATO client's taxable income as shown in his or her assessment for the qualifying year} - \$20,000}{\$10,000}$$

46 Making of bonus payment

If the Commissioner determines that an ATO client's claim for a bonus payment is to be granted, the Commissioner must, on behalf of the Commonwealth, make the bonus payment to the client at such time, and in such manner, as the Commissioner determines.

Note: Under the *Income Tax Assessment Act 1997*, a bonus payment is exempt from income tax.

Division 6—Review of determinations

47 Review after an amendment of assessment

Re-calculation of bonus payment entitlement if assessment amended

- (1) If:
- (a) the Commissioner makes a determination under section 43 or 44 (the **original determination**) in relation to an ATO client; and
 - (b) the Commissioner amends the ATO client's assessment for a qualifying year specified in the ATO client's claim;
- the Commissioner must work out under this Part the amount (if any) of the bonus payment the ATO client would be entitled to as a result of the assessment being amended.

Circumstances when original bonus payment determination is varied or revoked

- (2) If:
- (a) the Commissioner amended the assessment no later than 13 weeks after notice of the original determination was given to the ATO client (the **qualifying period**); or
 - (b) the Commissioner amended the assessment after the qualifying period as a result of the ATO client applying for an amendment of the assessment within that period; or
 - (c) the Commissioner amended the assessment after the qualifying period (without the ATO client having applied for an amendment of the assessment within that period) and as a result of the amendment the ATO client would be entitled to a lesser bonus payment than under the original determination or would not be entitled to any bonus payment;
- the Commissioner must:
- (d) if the original determination was made under section 43 and as a result of the assessment being amended the ATO client

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would be entitled to a different bonus payment than under the determination—vary the determination to reflect the correct entitlement; or

- (e) if the original determination was made under section 43 and as a result of the assessment being amended the ATO client would not be entitled to any bonus payment—revoke the determination and make a determination under section 44 in relation to the ATO client; or
- (f) if the original determination was made under section 44 and as a result of the assessment being amended the ATO client would be entitled to a bonus payment—revoke the determination and make a determination under section 43 in relation to the ATO client.

Note 1: Any part of a bonus payment to which the ATO client is not entitled is recoverable as a debt due to the Commonwealth: see section 51.

Note 2: Any additional bonus payment to which the ATO client is entitled is payable by the Commissioner to the client under section 46.

Circumstances when original bonus payment determination is not varied or revoked

- (3) If the Commissioner amended the assessment in any other circumstance, the Commissioner must not vary or revoke the original determination, or make any new determination in relation to the ATO client, as a result of the amendment.

Notice of variation

- (4) If, under this section, the Commissioner varies a determination under section 43, the Commissioner must give written notice of the variation to the ATO client. The notice must:
 - (a) state the amount of the bonus payment to which he or she is now entitled; and
 - (b) state the reasons for the Commissioner varying the determination; and
 - (c) state that he or she may object against the variation in the manner set out in Part IVC of the *Taxation Administration Act 1953*.
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Note: If, under this section, the Commissioner revokes the original determination and makes a new determination, the Commissioner must give notice of the new determination: see sections 43 and 44.

48 Commissioner may initiate review in other circumstances

- (1) If the Commissioner is satisfied, at any time after making a determination under section 43 in relation to an ATO client, that the ATO client:
- (a) was entitled to a lesser bonus payment than under the determination; or
 - (b) was not entitled to any bonus payment;
- (otherwise than where section 47 applies) the Commissioner must:
- (c) in a paragraph (a) case—vary the determination to reflect the correct entitlement; or
 - (d) in a paragraph (b) case—revoke the determination and make a determination under section 44 in relation to the ATO client.

Note: Any part of a bonus payment to which the ATO client is not entitled is recoverable as a debt due to the Commonwealth: see section 51.

- (2) The Commissioner must give written notice of any variation of a determination under section 43 to the ATO client. The notice must:
- (a) state the amount of the lesser bonus payment to which he or she is now entitled; and
 - (b) state the reasons for the Commissioner varying the determination; and
 - (c) state that he or she may object against the variation in the manner set out in Part IVC of the *Taxation Administration Act 1953*.

Note: In a case where the Commissioner revokes the determination and makes a new determination under section 44, the Commissioner must give notice of the reasons etc. for this under that section.

49 ATO client may initiate review under the Taxation Administration Act

- (1) If an ATO client is dissatisfied with:
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- (a) a determination of the Commissioner under section 43 or 44;
or
 - (b) a decision of the Commissioner under section 47 or 48 to
vary a determination of the Commissioner under section 43;
the client may object against it in the manner set out in Part IVC of
the *Taxation Administration Act 1953*.
- (2) However, the client must lodge an objection with the
Commissioner no later than 13 weeks after notice of the
determination or of the variation was given to the client.
- (3) Subsection (2) has effect despite anything in Part IVC of the
Taxation Administration Act 1953.

**50 Determinations not to be varied or revoked other than in
accordance with this Division**

The Commissioner must not vary or revoke a determination under
section 43 or 44, except as mentioned in section 47 or 48, or where
the variation or revocation takes place in giving effect to an
objection under section 49.

Division 7—When and how payments can be recovered

51 Recovery of payments

- (1) The following amounts are recoverable as debts due to the Commonwealth:
 - (a) a payment made to an ATO client under this Part to which the client was not entitled (including because of any variation or revocation of a determination under this Part);
 - (b) interest payable under subsection 52(2).
- (2) The amounts are recoverable from the ATO client or his or her estate.
- (3) An amount recoverable under subsection (1) is recoverable whether or not any person has been convicted of an offence relating to the payment.

52 Interest on amounts recoverable

- (1) If the Commissioner has served on an ATO client from whom an amount is recoverable under subsection 51(1), or the legal personal representative of such a client, a notice claiming an amount as a debt due to the Commonwealth and:
 - (a) an arrangement for the repayment of the amount has been entered into between the Commissioner and the client or the client's legal personal representative, as the case may be, within the period referred to in subsection (3), and there has been a default in payment of an amount required to be paid under the arrangement; or
 - (b) at the end of the period such an arrangement has not been entered into and all or part of the amount remains unpaid;then, from and including the day after the end of the period, interest becomes payable, by way of penalty, on so much of the amount as from time to time remains unpaid.
- (2) Interest is payable:

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- (a) at the rate specified in the regulations; or
 - (b) if no rate is so specified—at the rate of 8% per annum.
- (3) The period for entering into an arrangement under paragraph (1)(a) is the period of 3 months following the service of the notice under subsection (1), or such longer period as the Commissioner allows.
- (4) Despite subsection (1), in any proceedings instituted by the Commonwealth for the recovery of an amount due under paragraph 51(1)(b), the court may order that the interest payable under that paragraph is, and is taken to have been, so payable from and including a day later than the day referred to in subsection (1).

53 Write off, waiver and payment by instalments

- (1) The Commissioner may, on behalf of the Commonwealth, make a written determination:
 - (a) writing off an amount that a person is required to pay to the Commonwealth under section 51; or
 - (b) waiving the right of the Commonwealth to recover from a person the whole or a part of an amount that the person is required to pay to the Commonwealth under that section; or
 - (c) allowing a person who is required to pay an amount to the Commonwealth under that section to pay that amount by such instalments as are specified in the determination.
- (2) A determination under subsection (1) takes effect according to its terms:
 - (a) on the day specified in the determination, being the day on which the determination is made or any day before or after that day; or
 - (b) if no day is so specified—on the day on which the determination is made.
- (3) If a determination is made under subsection (1) in relation to a person, the Commissioner must cause notice of the determination to be served on the person.

Review by Administrative Appeals Tribunal

- (4) Application may be made to the Administrative Appeals Tribunal for review of a decision by the Commissioner not to make a determination under this section in relation to an amount.

Note: Under section 27A of the *Administrative Appeals Tribunal Act 1975*, the decision-maker must notify persons whose interests are affected by the making of the decision of their right to have the decision reviewed. In notifying any such persons, the decision-maker must have regard to the Code of Practice determined under section 27B of that Act.

Division 8—Miscellaneous

54 General administration of Part

The Commissioner has the general administration of this Part.

55 Use etc. of information relating to another person

- (1) A person is guilty of an offence if:
- (a) the person uses, makes a record of, or discloses or communicates to any person, any information that relates to the affairs of another person and that was acquired by the person in the performance of a function or obligation, or in the exercise of a power, under this Part; and
 - (b) the use, making of the record, disclosure or communication was not carried out in the performance of the function or obligation, or in the exercise of the power.

Maximum penalty: Imprisonment for 2 years.

Application of the Criminal Code

- (2) Chapter 2 of the *Criminal Code* applies to the offence under subsection (1).

56 False or misleading information etc.

For the purposes of section 8K of the *Taxation Administration Act 1953*, but not otherwise for the purposes of that Act, this Part is a taxation law.

Part 5—Other matters

57 Bonus payment not income under Social Security Act or Veterans' Entitlements Act

A bonus payment under Part 2, 3 or 4 is taken not to be income for the purposes of:

- (a) the *Social Security Act 1991*; and
- (b) the *Veterans' Entitlements Act 1986*.

58 Appropriation

The Consolidated Revenue Fund is appropriated for the purpose of making payments under this Act.

59 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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

(213/98)

