

HEALTH INSURANCE LEVY ASSESSMENT ACT 1976

No. 53 of 1976

An Act to amend the Law relating to Income Tax in relation to the Imposition, Assessment and Collection of a Health Insurance Levy.

BE IT ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:—

Short title
and citation.

1. (1) This Act may be cited as the *Health Insurance Levy Assessment Act 1976*.¹

(2) The *Income Tax Assessment Act 1936*² as amended and in force immediately before the commencement of this Act is in this Act referred to as the Principal Act.

(3) Section 1 of the *Income Tax Assessment Amendment Act 1976*³ is amended by omitting sub-section (3).

(4) The Principal Act, as amended by this Act, may be cited as the *Income Tax Assessment Act 1936-1976*.

Commence-
ment.

2. This Act shall come into operation on the day on which it receives the Royal Assent.¹

3. After Part VIIA of the Principal Act the following Part is inserted:—

“PART VIIB—HEALTH INSURANCE LEVY

Interpret-
ation.

“251R. (1) In this Part—

‘address’, in relation to a person, means the address of a place of residence or business of the person last known to the person issuing the certificate in which the address is required to be set out;

‘health insurance levy’ or ‘levy’ means health insurance levy imposed as such by any Act as assessed under this Act;

‘levy relief certificate’ means a certificate issued to a person in accordance with section 251X, 251Y, 251Z or 251ZA;

‘Medibank contributor’ has the same meaning as in section 8A of the *Health Insurance Commission Act 1973-1976*;

‘privately insured person’ has the same meaning as in the *Health Insurance Act 1973-1976*;

‘registered organization’ means an organization registered as a medical benefits organization or a hospital benefits organization under Part VI of the *National Health Act 1953-1976*;

‘Repatriation Acts’ means the *Repatriation Act 1920-1976*, the *Repatriation (Far East Strategic Reserve) Act 1956-1974*, the *Repatriation (Special Overseas Service) Act 1962-1974*, the *Interim Forces Benefits Act 1947-1974* and the *Seamen’s War Pensions and Allowances Act 1940-1975*.

“(2) Subject to sub-sections (3) and (4), a person shall be taken to have been a dependant of a taxpayer for the purposes of this Part during any part of the year of income in which—

- (a) the person was a resident of Australia;
- (b) the person was—
 - (i) the spouse of the taxpayer;
 - (ii) a child of the taxpayer less than 16 years of age; or
 - (iii) a child of the taxpayer not less than 16 years of age but less than 25 years of age and receiving full-time education at a school, college or university; and
- (c) the taxpayer contributed to the maintenance of the person.

“(3) A child referred to in sub-paragraph (iii) of paragraph (b) of sub-section (2) shall not be taken to have been a dependant of a taxpayer for the purposes of this Part during a period being the whole or a part of a year of income unless the taxpayer would be entitled to a rebate in respect of that child under section 159J in his assessment in respect of income of that year of income but for sub-section (1A) of that section.

“(4) For the purposes of paragraph (c) of sub-section (2), a taxpayer shall be taken to have contributed to the maintenance of another person during any period during which the taxpayer and that other person resided together unless the contrary is established to the satisfaction of the Commissioner.

“(5) In this Act (other than this Part, the definition of ‘year of tax’ in sub-section (1) of section 6, section 31B, and Divisions 16, 17, 18 and 19 of Part III), unless the contrary intention appears, ‘income tax’ or ‘tax’ includes levy payable in accordance with this Part.

“(6) References in this Act other than in section 251U to rebates do not include references to any rebate allowable under that section.

“(7) In determining for the purposes of this Part whether a person was, or but for sub-section (2) of section 251V would have been, or was

not, a prescribed person during the whole or a part of the year of income commencing on 1 July 1976, that year of income shall be deemed to be constituted by the period commencing on 1 October 1976 and ending on 30 June 1977.

Health
insurance
levy.

“251S. (1) Subject to this Part, a levy by the name of health insurance levy is levied, and shall be paid, at the rate applicable under the relevant Act imposing the levy, for the financial year commencing on 1 July 1976, and for each succeeding financial year, upon—

- (a) the taxable income of the year of income of a person, not being a company or a person in the capacity of a trustee, who, at any time during the year of income, was a resident of Australia otherwise than by virtue of sub-section (2) of section 7A;
- (b) if the trustee of a trust estate is required to be assessed in pursuance of section 98 in respect of a share of the net income of the trust estate of the year of income, being a share to which a beneficiary who, at any time during the year of income, was a resident of Australia otherwise than by virtue of sub-section (2) of section 7A is presently entitled—that share of that net income; and
- (c) if the trustee of a trust estate is required to be assessed, and is liable to pay tax, in pursuance of section 99 or 99A in respect of the whole or a part of the net income of the trust estate of the year of income—that net income or that part of that net income, as the case may be.

“(2) Levy payable by a person in accordance with this Part is payable in addition to any tax payable by him in accordance with any other provision of this Act.

Levy not
payable by
prescribed
persons or
by certain
trustees.

“251T. Notwithstanding anything contained in section 251S, health insurance levy is not payable by—

- (a) a person (not being a person in the capacity of a trustee) who was a prescribed person during the whole of the year of income;
- (b) a person in the capacity of a trustee of a trust that is a Territory trust for the purposes of Division 1A of Part III in relation to the year of income, in respect of income of the trust of the year of income; or
- (c) a person in the capacity of a trustee of a trust, in respect of a share of the net income of the trust estate of the year of income (being a share to which a beneficiary who was a prescribed person during the whole of the year of income is presently entitled) in respect of which the trustee is required to be assessed in pursuance of section 98.

“251U. (1) Where the sum of the rebates of tax to which a taxpayer being a person to whom paragraph (a), or a trustee to whom paragraph (b), of sub-section (1) of section 251S applies in respect of a year of income is entitled under Subdivision A of Division 17 of Part III in his assessment in respect of income of that year of income exceeds the amount of tax payable by the taxpayer by virtue of that assessment before the allowance of any other rebate or any credit, the taxpayer is entitled to a rebate of levy, in his assessment in respect of income of that year of income, of an amount equal to—

Excess tax rebates to be allowed against levy.

- (a) in the case of the year of income commencing on 1 July 1976—three-quarters of the amount of the excess; or
- (b) in any other case—the amount of the excess.

“(2) Where in relation to a year of income—

- (a) an amount of further tax is payable in pursuance of sub-section (9) or (11) of section 94 by a taxpayer being a person to whom paragraph (a), or a trustee to whom paragraph (b), of sub-section (1) of section 251S applies in respect of that year of income; and
- (b) the sum of the rebates to which the taxpayer would be entitled under Subdivision A of Division 17 of Part III, but for the operation of sub-section (4) or (5) of section 159N, in his assessment in respect of income of that year of income exceeds the sum of the rebates to which the taxpayer is entitled under that Subdivision,

the taxpayer is entitled to a further rebate of levy, in his assessment in respect of income of that year of income, of an amount equal to—

- (c) in the case of the year of income commencing on 1 July 1976—three-quarters of the amount of the excess; or
- (d) in any other case—the amount of the excess.

“(3) The rebate, or the sum of the rebates, allowable to a taxpayer under this section in his assessment in respect of income of a year of income shall not exceed the amount of levy that would, but for this section, be payable by the person in respect of income of that year of income.

“251V. (1) Subject to sub-section (2), a person shall be taken to have been a prescribed person for the purposes of this Part during a particular period if—

Prescribed persons.

- (a) during the whole of that period the person was a privately insured person or a Medibank contributor;
- (b) the person was entitled to free medical treatment during the whole of that period in respect of every incapacity, disease or disabling condition by reason that the person was a member of the Defence Force or was a relative of, or was otherwise associated with, a member of the Defence Force;

- (c) the person was entitled under any of the Repatriation Acts to free medical treatment during the whole of that period in respect of every incapacity, disease or disabling condition; or
- (d) during the whole of that period the person was a non-resident.

“(2) A person shall not be taken to have been a prescribed person for the purposes of this Part during a particular period unless every person who was a dependant of the first-mentioned person during that period is to be taken, or but for this sub-section would be taken, to have been a prescribed person for the purposes of this Part during that period.

“(3) Where—

- (a) a person would not, but for this sub-section, be taken to have been a prescribed person for the purposes of this Part during a particular period; and
- (b) the person would, but for sub-section (2), be taken to have been a prescribed person for the purposes of this Part during that period by virtue of paragraph (b) or (c) of sub-section (1),

the person shall be taken to have been a prescribed person for the purposes of this Part during one-half of that period.

Evidence to
be furnished
to Com-
missioner.

“251W. (1) For the purposes of the making of an assessment under this Act, a person shall not be treated as having been a prescribed person during a period by reason of paragraph (a), (b) or (c) of sub-section (1), or by reason of sub-section (3), of section 251V unless there has or have been furnished to the Commissioner a levy relief certificate or levy relief certificates establishing to the satisfaction of the Commissioner that the person was a prescribed person during that period.

“(2) If the Commissioner is satisfied that a levy relief certificate has been stolen, lost or destroyed and is satisfied as to the particulars that were stated in that certificate, the Commissioner shall apply the provisions of sub-section (1) in the same manner as if that certificate had been furnished to the Commissioner.

“(3) If the Commissioner is satisfied that a levy relief certificate that is required by this Act to be issued to a person has not been issued and is satisfied as to the particulars that, if such a certificate had been issued, should have been stated in the certificate, the Commissioner shall apply the provisions of sub-section (1) in the same manner as if such a certificate had been issued and had been furnished to the Commissioner.

“(4) If a levy relief certificate issued to a person before the expiration of a particular period certifies that, in the opinion of the authority or person issuing the certificate, the person to whom the certificate relates is likely to be entitled to medical treatment of the kind mentioned in paragraph (b) or (c) of sub-section (1) of section 251V during that period, the Commissioner may, unless he has evidence to the contrary, treat the certificate as establishing that the person was entitled to that treatment during that period.

“(5) Where the Commissioner has reason to believe that a levy relief certificate furnished to him for the purposes of this section states an incorrect particular or omits to state a particular that was required to be stated—

- (a) if he is satisfied as to the correct particular that should have been stated, or as to the particular that was omitted to be stated, in the certificate—he may treat the certificate as having correctly stated that particular; or
- (b) if he is not so satisfied—he shall treat the certificate as not having been furnished to him.

“(6) If the Commissioner suspects that a document purporting to be a levy relief certificate that was furnished to him for the purposes of this section is not in fact such a certificate, he may treat the document as not being such a certificate unless and until he is satisfied that the document is such a certificate.

“(7) The Commissioner shall retain any document being or purporting to be a levy relief certificate furnished to him for the purposes of this section for such period as he thinks fit and, after the expiration of that period, he shall cause the document to be destroyed.

“251X. (1) In this section, ‘class of health benefits’ means either of the following classes of benefits:—

- (a) the benefits referred to in the definition of ‘the standard medical benefits table’ in sub-section (1) of section 4 of the *National Health Act 1973-1976*; or
- (b) the benefits referred to in the definition of ‘the standard hospital benefits table’ in that sub-section.

Issue of
levy relief
certificates
by registered
organization.

“(2) For the purposes of this section—

- (a) a person shall be taken to have been entitled at a particular time to a particular class of health benefits (whether in relation to himself or in relation to another person) if, had any service, treatment or care to which benefits of that class related been rendered at that time to him or to that other person, as the case may be, benefits of that class would have been payable to him in respect of that service, treatment or care; and
- (b) a person shall be taken to be a person who will be entitled at a particular time to a particular class of health benefits (whether in relation to himself or in relation to another person) if, by reason of contributions that were paid by him before the issue of the relevant certificate under this section, in the event of any service, treatment or care to which benefits of that class relate being rendered at that time to him or to that other person, as the case may be, benefits of that class will be payable to him in respect of that service, treatment or care.

“(3) A registered organization shall, not earlier than 1 May and not later than 15 June in the year ending 30 June 1977 and each subsequent year, issue a certificate in accordance with sub-section (4) to every person who, during the whole or part of the year in relation to which the certificate is required to be issued, was or will be entitled to a class of health benefits by reason of his having been a contributor to a medical benefits fund or a hospital benefits fund conducted by that organization.

“(4) A certificate issued to a person under sub-section (3) shall—

- (a) set out the name and address of the person;
- (b) in relation to each class of health benefits to which the person was or will be entitled during the whole or a part of the year in relation to which the certificate is required to be issued—state whether the person was or will be entitled to those benefits during the whole or a part of that year and, if the person was or will be entitled to those benefits during a part only of that year, specify the part during which he was or will be so entitled; and
- (c) in relation to each class of health benefits to which the person was or will be entitled during the whole or a part of that year—state whether the person was or will be entitled to that class of health benefits in relation only to himself or in relation both to himself and to another person and, if he was or will be entitled to that class of health benefits in relation to another person, set out the name and address of the other person and specify the part of that year during which he was or will be entitled to that class of health benefits in relation to that other person.

“(5) Where a person who was or will be, or in respect of whom another person was or will be, during the whole or a part of a year ending on 30 June, entitled to a class of health benefits by reason of his having been or being, or the other person having been or being, as the case may be, a contributor to a medical benefits fund or a hospital benefits fund conducted by a registered organization applies to the organization for a certificate in accordance with sub-section (6) in relation to that year, the organization shall not later than 14 days after the date on which it receives the application, issue to the applicant a certificate in accordance with sub-section (6).

“(6) A certificate issued to a person under sub-section (5) shall—

- (a) set out the name and address of the applicant for the certificate; and
- (b) in relation to each class of health benefits to which the applicant was or will be entitled or to which the other person mentioned in sub-section (5) was or will be entitled in relation to the applicant during the whole or a part of the year in relation to which the certificate was applied for—state whether the applicant or the other person was or will be entitled to that class of benefits

during the whole or a part of that year and, if the applicant or the other person was or will be entitled to those benefits during a part only of that year, specify the part during which he was or will be so entitled.

“(7) A registered organization that contravenes or fails to comply with a provision of this section that is applicable to it is guilty of an offence and is punishable, on conviction, by a fine not exceeding \$1,000.

“251Y. (1) The Health Insurance Commission shall, not earlier than 1 May and not later than 15 June in the year ending 30 June 1977 and each subsequent year, issue a certificate in accordance with sub-section (2) to every person who, during the whole or a part of the year in relation to which the certificate is required to be issued, was or will be a Medibank contributor otherwise than by reason of his being a dependant of another person.

Issue of
levy relief
certificates
by Health
Insurance
Commission.

“(2) A certificate issued to a person under sub-section (1) shall—

- (a) set out the name and address of the person;
- (b) state whether the person was or will be a Medibank contributor during the whole or a part of the year in relation to which the certificate is required to be issued and, if the person was or will be a Medibank contributor during a part only of that year, specify the part during which he was or will be a Medibank contributor; and
- (c) if another person was or will be a Medibank contributor during the whole or a part of that year by reason of his being a dependant of the person—set out the name and address of the other person and specify the part of that year during which he so was or will be a Medibank contributor.

“(3) Where an application is made to the Health Insurance Commission in relation to a year ending on 30 June by a person who, during the whole or a part of that year, was or will be a Medibank contributor, the Health Insurance Commission shall, not later than 14 days after the date on which it receives the application, issue to the applicant a certificate in accordance with sub-section (4).

“(4) A certificate issued to a person under sub-section (3) shall—

- (a) set out the name and address of the applicant; and
- (b) state whether the applicant was or will be a Medibank contributor during the whole or a part of the year in relation to which the certificate was applied for and, if the applicant was or will be a Medibank contributor during a part only of that year, specify the part during which he was or will be a Medibank contributor.

“(5) For the purpose of the issue of a certificate under this section, a person shall be taken to be a person who will be a Medibank contributor during a particular period if, by reason of contributions that were paid

by him or by another person before the issue of the certificate, he will be a Medibank contributor during that period.

Issue of levy
relief
certificates
by
Repatriation
Commission.

“251Z. (1) The Repatriation Commission shall, not earlier than 1 May and not later than 15 June in the year ending 30 June 1977 and each subsequent year, issue a certificate in accordance with sub-section (2) to every person who, during the whole or a part of the year in relation to which the certificate is required to be issued, was, or in the opinion of the Repatriation Commission is likely to be, entitled to medical treatment of the kind referred to in paragraph (c) of sub-section (1) of section 251V otherwise than by reason of his being a relative of, or otherwise associated with, another person.

“(2) A certificate issued to a person under sub-section (1) shall—

- (a) set out the name and address of the person;
- (b) state whether the person was, or in the opinion of the Repatriation Commission is likely to be, entitled to such medical treatment as is mentioned in that sub-section during the whole or a part of the year in relation to which the certificate is required to be issued and, if the person was, or is likely to be, entitled to such medical treatment during a part only of that year, specify the part during which he was, or is likely to be, entitled to such medical treatment; and
- (c) if another person was, or in the opinion of the Repatriation Commission is likely to be, entitled to such medical treatment during the whole or a part of that year by reason of his being a relative of, or otherwise associated with, the person—set out the name and address of the other person and specify the part of that year during which he so was or is likely to be entitled to such medical treatment.

“(3) Where an application is made to the Repatriation Commission in relation to a year ending on 30 June by a person who, during the whole or a part of that year, was, or in the opinion of the Repatriation Commission is likely to be, entitled to any medical treatment of the kind mentioned in paragraph (c) of sub-section (1) of section 251V, the Repatriation Commission shall, not later than 14 days after the date on which it receives the application, issue to the applicant a certificate in accordance with sub-section (4).

“(4) A certificate issued to a person under sub-section (3) shall—

- (a) set out the name and address of the applicant; and
- (b) state whether the applicant was, or in the opinion of the Repatriation Commission is likely to be, entitled to such medical treatment as is mentioned in that sub-section during the whole or a part of the year in relation to which the certificate was applied for and, if the applicant was, or in the opinion of the Repatriation Commission is likely to be, entitled to such medical

treatment during a part only of that year, specify the part during which he was, or is likely to be, so entitled.

“251ZA. (1) A chief of staff or a person authorized by a chief of staff shall, not earlier than 1 May and not later than 15 June in the year ending 30 June 1977 and each subsequent year, issue a certificate in accordance with sub-section (2) to every person who, during the whole or a part of the year in relation to which the certificate is required to be issued, was, or in the opinion of the chief of staff or person authorized by the chief of staff is likely to be, entitled to medical treatment of the kind referred to in paragraph (b) of sub-section (1) of section 251V otherwise than by reason of his being a relative of, or otherwise associated with, another person.

Issue of levy relief certificates by chief of staff.

“(2) A certificate issued to a person under sub-section (1) shall—

- (a) set out the name and address of the person;
- (b) state whether the person was, or in the opinion of the chief of staff or person authorized by the chief of staff is likely to be, entitled to such medical treatment as is mentioned in that sub-section during the whole or a part of the year in relation to which the certificate is required to be issued and, if the person was, or is likely to be, entitled to such medical treatment during a part only of that year, specify the part during which he was, or is likely to be, entitled to such medical treatment; and
- (c) if another person was, or in the opinion of the chief of staff or person authorized by the chief of staff is likely to be, entitled to such medical treatment during the whole or a part of that year by reason of his being a relative of, or otherwise associated with, the person—set out the name and address of the other person and specify the part of that year during which he so was, or is likely to be, entitled to such medical treatment.

“(3) Where an application is made to a chief of staff or a person authorized by a chief of staff to deal with applications under this sub-section in relation to a year ending on 30 June by a person who, during the whole or a part of that year, was, or in the opinion of the chief of staff or person authorized by the chief of staff is likely to be, entitled to any medical treatment of the kind mentioned in paragraph (b) of sub-section (1) of section 251V, the chief of staff or person authorized by the chief of staff shall, not later than 14 days after the date on which he receives the application, issue to the applicant a certificate in accordance with sub-section (4).

“(4) A certificate issued to a person under sub-section (3) shall—

- (a) set out the name and address of the applicant; and
- (b) state whether the applicant was, or in the opinion of the chief of staff or person authorized by the chief of staff is likely to be, entitled to such medical treatment as is mentioned in that sub-section during the whole or a part of the year in relation to which

the certificate was applied for and, if the applicant was, or in the opinion of the chief of staff or person authorized by the chief of staff is likely to be, entitled to such medical treatment during a part only of that year, specify the part during which he was, or is likely to be, so entitled.

Miscellaneous provisions relating to levy relief certificates.

“251ZB. (1) Nothing in this Part requires the issue of a levy relief certificate in respect of a period before 1 October 1976.

“(2) Nothing in sub-sections (5) and (6) of section 251X, sub-sections (3) and (4) of section 251Y, sub-sections (3) and (4) of section 251Z or sub-sections (3) and (4) of section 251ZA requires the issue of a levy relief certificate to a person in respect of a period in respect of which the person issuing the certificate has previously issued such a certificate to the same person and, where such a previous certificate has been issued, a reference in any of those sub-sections to the year in relation to which a certificate was applied for does not include a reference to any part of such a year in respect of which the previous certificate was issued.

“(3) A levy relief certificate—

- (a) shall be issued in duplicate in accordance with a form made available by the Commissioner; and
- (b) shall contain, in addition to any information required by this Part to be included in that certificate, such other information as is required to be so included by a direction set out in the form.

Misleading levy relief certificates.

“251ZC. (1) Subject to this section, where—

- (a) in making an assessment of income the Commissioner has had regard to particulars set out in a levy relief certificate issued to a person by a registered organization;
- (b) any of the particulars were incorrect;
- (c) the Commissioner has amended the assessment by reason that he has become aware of the respects in which the particulars set out in the levy relief certificate were incorrect; and
- (d) the Commissioner has served a notice on the registered organization—
 - (i) stating that he has become aware that the particulars in the certificate were incorrect;
 - (ii) setting out the respects in which to his knowledge particulars in the certificate were incorrect;
 - (iii) informing the organization that the assessment has been amended; and
 - (iv) requiring the organization to pay to the Commissioner the amount of \$20 not later than a date specified in the notice, being a date not earlier than 30 days after the date of service of the notice,

the registered organization is liable to pay to the Commissioner in respect of the incorrect certificate the amount of \$20 not later than the date so specified in the notice.

“(2) A notice served by the Commissioner on a registered organization under sub-section (1) may relate to more than one levy relief certificate issued by that organization but in that case the organization is liable under that sub-section to pay to the Commissioner the amount of \$20 in respect of each incorrect certificate.

“(3) Where an amount payable to the Commissioner by a registered organization under this section remains unpaid after the day by which it is required to be paid—

- (a) the amount continues to be payable by the organization to the Commissioner; and
- (b) an additional amount is payable by the organization to the Commissioner at the rate of 10 per centum per annum on the amount unpaid, computed from the expiration of that day.

“(4) The Commissioner may, in any case, for reasons that he thinks sufficient, remit any amount or any additional amount payable under this section or any part of such an amount or additional amount.

“(5) An amount payable to the Commissioner under the provisions of this section is a debt due to the Queen on behalf of the Commonwealth and payable to the Commissioner and may be sued for and recovered in any court of competent jurisdiction by the Commissioner, or a Deputy Commissioner, suing in his official Name.

“(6) In an action against a registered organization for the recovery of an amount payable to the Commissioner under the provisions of this section, a certificate in writing signed by the Commissioner, a Deputy Commissioner or a prescribed delegate of the Commissioner certifying that the sum specified in the certificate was, at the date of the certificate, due by the organization to the Queen on behalf of the Commonwealth in respect of an amount payable to the Commissioner under the provisions of this Part, is *prima facie* evidence of the matters stated in the certificate.

“251ZD. A person shall not—

Offences.

- (a) knowingly or recklessly make a false statement in a document that is, or purports to be, a levy relief certificate;
- (b) fraudulently alter any particulars set out in a levy relief certificate;
- (c) furnish to the Commissioner a levy relief certificate that has been altered otherwise than by, or with the permission of, the person who issued the certificate;
- (d) without lawful excuse, have in his possession a colourable imitation of a levy relief certificate;

- (e) falsely pretend to the Commissioner that he is a person named in a levy relief certificate;
- (f) furnish to the Commissioner for the purposes of section 251W—
 - (i) a document purporting to be a levy relief certificate that, to his knowledge, is not a levy relief certificate; or
 - (ii) a document that is, or purports to be, a levy relief certificate and contains particulars that, to his knowledge, are incorrect; or
- (g) make, for the purposes of any regulations prescribing matters in relation to this Part, a declaration that is false or misleading in a material particular.

Penalty: \$1,000 or imprisonment for 6 months.

Joinder of charges under this Part.

“251ZE. (1) Charges against the same registered organization or the same person, as the case may be, for any number of offences against the foregoing provisions of this Part may be joined in one complaint if those charges are founded on the same facts, or form, or are part of, a series of offences of the same or a similar character.

“(2) Where more than one such charge is included in the same complaint in pursuance of this Part, particulars of each offence charged shall be set out in a separate paragraph.

“(3) All charges so joined shall be tried together unless the Court deems it just that any charge should be tried separately and makes an order to that effect.

“(4) If a registered organization or a person, as the case may be, is found guilty of more than one offence, the Court may, if it thinks fit, impose one penalty in respect of all offences of which the organization or person has been found guilty, but that penalty shall not exceed the sum of the maximum penalties that could be imposed if penalties were imposed for each offence separately.

Prosecutions.

“251ZF. A prosecution for an offence against any of the provisions of this Part may be commenced at any time.

Notification of health insurance levy on notices of assessment.

“251ZG. The notice of assessment of a taxpayer in respect of income of a year of income that the Commissioner is required to serve on the taxpayer under section 174 shall, if the taxpayer is liable in respect of that income to pay levy in addition to any tax payable under provisions of this Act other than this Part, specify the amount of the levy.

Calculation of provisional tax on estimated income.

“251ZH. Where section 221YDA applies for the purpose of determining the provisional tax payable by a taxpayer in respect of income of a year of income, the Commissioner may make such assumptions as he thinks appropriate as to whether the taxpayer, or, in the case of a taxpayer in the capacity of a trustee who is required to be assessed under section 98, the relevant beneficiary in the trust estate, is likely to be a prescribed person during the whole or a part of that year of income.

“251ZJ. (1) Notwithstanding anything contained in Division 3 of Part III, a deduction is not allowable under that Division in respect of an amount of levy paid by the taxpayer.

Deduction not allowable in respect of levy.

“(2) Notwithstanding anything contained in Division 17 of Part III, a rebate is not allowable under that Division in respect of any amount of levy paid by the taxpayer.”.

4. Section 159R of the Principal Act is amended—

(a) by omitting from sub-section (1) the words “(not being amounts referred to in section 159S)”;

Life insurance premiums, &c.

(b) by inserting after sub-section (1) the following sub-section:—

“(1A) An amount paid by the taxpayer shall not be taken into account for the purposes of sub-section (1)—

(a) if the amount was so paid to a medical or hospital benefits fund or to the Health Insurance Commission; or

(b) to the extent (if any) that, in the opinion of the Commissioner, the amount was attributable to insurance in respect of medical expenses within the meaning of section 159P.”.

5. Section 159S of the Principal Act is repealed.

Payments to medical and hospital benefits funds.

6. (1) Subject to this section, for the purposes of the application of sub-section 221YC (1) of the Principal Act as amended by this Act in ascertaining the amount of provisional tax payable by a taxpayer in respect of income of the year of income that commences on 1 July 1976—

Provisional levy for financial year 1976-1977.

(a) if paragraph (a) of that sub-section applies to the taxpayer—the amount of provisional tax payable by him in respect of the income of that year of income by virtue of that paragraph as affected by section 17 of the *Income Tax Assessment Amendment Act (No. 2) 1976* shall be increased by the amount that would have been payable as health insurance levy in respect of his taxable income of the year next preceding that year of income if Part VIIB of the Principal Act as amended by this Act, and the *Health Insurance Levy Act 1976* (other than sub-section 7 (3)), had been in force and had applied in relation to income of that preceding year of income; and

(b) if paragraph (b) of that sub-section applies to the taxpayer—the amount of provisional tax payable by him in respect of the income of that year of income by virtue of that paragraph as affected by section 17 of the *Income Tax Assessment Amendment Act (No. 2) 1976* shall be increased by the amount that would have been payable as health insurance levy in respect of

his taxable income of the year next preceding that year of income if—

- (i) his taxable income of that next preceding year had been equal to his provisional income; and
- (ii) Part VIIB of the Principal Act as amended by this Act, and the *Health Insurance Levy Act 1976* (other than sub-section 7 (3)), had been in force and had applied in relation to income of that next preceding year.

(2) The Commissioner may determine that the provisional tax payable by a taxpayer in respect of income of the year of income commencing on 1 July 1976 shall not be increased by virtue of sub-section (1), or may reduce the amount by which that provisional tax would, but for this sub-section, be increased by virtue of sub-section (1), where the Commissioner considers that, by reason that the taxpayer or another person will be a prescribed person for the purposes of Part VIIB of the Principal Act as amended by this Act during the whole or a part of that year of income, the tax payable in respect of that income is likely to be less than the provisional tax that would, but for this sub-section, be payable in respect of that income.

Application. 7. (1) The amendment made by section 3 applies to assessments in respect of income of the year of income commencing on 1 July 1976 and in respect of income of all subsequent years of income.

- (2) The amendments made by sections 4 and 5 apply—
 - (a) in relation to amounts paid on or after 1 October 1976; and
 - (b) in relation to amounts paid by a person before that date to an organization registered as a medical benefits organization or a hospital benefits organization under Part VI of the *National Health Act 1953-1976*, being payments that entitled the person to benefits of a kind referred to in paragraph 251X (1) (a) or (b) of the Principal Act as amended by this Act.

NOTES

1. Act No. 53, 1976; assented to 4 June 1976.
2. Act No. 27, 1936, as amended by No. 88, 1936; No. 5, 1937; No. 46, 1938; No. 30, 1939; Nos. 17 and 65, 1940; Nos. 58 and 69, 1941; Nos. 22 and 50, 1942; No. 10, 1943; Nos. 3 and 28, 1944; Nos. 4 and 37, 1945; No. 6, 1946; Nos. 11 and 63, 1947; No. 44, 1948; No. 66, 1949; No. 48, 1950; No. 44, 1951; Nos. 4, 28 and 90, 1952; Nos. 1, 28, 45 and 81, 1953; No. 43, 1954; Nos. 18 and 62, 1955; Nos. 25, 30 and 101, 1956; Nos. 39 and 65, 1957; No. 55, 1958; Nos. 12, 70 and 85, 1959; Nos. 17, 18, 58 and 108, 1960; Nos. 17, 27 and 94, 1961; Nos. 39 and 98, 1962; Nos. 34 and 69, 1963; Nos. 46, 68, 110 and 115, 1964; Nos. 33, 103 and 143, 1965; Nos. 50 and 83, 1966; Nos. 19, 38, 76 and 85, 1967; Nos. 4, 60, 70, 87 and 148, 1968; Nos. 18, 93 and 101, 1969; No. 87, 1970; Nos. 6, 54 and 93, 1971; Nos. 5, 46, 47, 65 and 85, 1972; Nos. 51, 52, 53, 164 and 165,

NOTES—continued

1973; No. 216, 1973 (as amended by No. 20, 1974); Nos. 26 and 126, 1974; Nos. 80 and 117, 1975; and No. 50, 1976.

3. Act No. 50, 1976.