



Medicare Levy Act 1985

No. 126 of 1985

An Act to impose a Medicare levy upon certain incomes

[Assented to 28 October 1985]

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

Short title

1. This Act may be cited as the *Medicare Levy Act 1985*.

Commencement

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

Interpretation

3. (1) In this Act, unless the contrary intention appears—
“Assessment Act” means the *Income Tax Assessment Act 1936*;
“levy” means Medicare levy referred to in section 5.
(2) In this Act, a reference to net income or taxable income shall be read as a reference to net income or taxable income, as the case may be, of the year of income.

(3) For the purposes of this Act—

- (a) a person shall be deemed not to be legally married to another person if they are living separately and apart; and
- (b) where the last person to whom another person was legally married during a year of income died during the year of income, those persons shall be deemed to have been legally married on the last day of the year of income.

(4) Subject to the preceding provisions of this section, expressions used in this Act that are also used in Part VIIB of the Assessment Act have in this Act, unless the contrary intention appears, the same meanings as those expressions have in that Part of the Assessment Act.

Incorporation

4. The Assessment Act is incorporated, and shall be read as one, with this Act.

Imposition of Medicare levy

5. Medicare levy, to the extent that that levy is payable in accordance with Part VIIB of the Assessment Act, is imposed in accordance with this Act at the rate applicable in accordance with this Act.

Rate of levy

6. (1) The rate of levy payable by a person upon a taxable income is 1%.

(2) The rate of levy payable by a person in the capacity of a trustee of a trust estate upon a share of the net income of the trust estate to which a beneficiary is presently entitled, being income in respect of which the trustee is liable to be assessed pursuant to section 98 of the Assessment Act, is 1%.

(3) The rate of levy payable by a person in the capacity of a trustee of a trust estate upon the net income of the trust estate or a part of that net income, being income in respect of which the trustee is liable to be assessed and pay tax pursuant to section 99 or 99A of the Assessment Act, is 1%.

Levy in cases of small income

7. (1) Where the taxable income of a person does not exceed \$7,526, no levy is payable by the person upon that taxable income.

(2) Where the taxable income of a person exceeds \$7,526 but does not exceed \$7,922, the amount of levy payable by the person upon that taxable income but for sections 8 and 9 shall not exceed 20% of the amount of the excess.

(3) Where the net income of a trust estate or a part of that net income, being income in respect of which a person in the capacity of a trustee of a trust estate is liable to be assessed pursuant to section 99 of the Assessment

Act, does not exceed \$416, no levy is payable by the person upon that net income or part, as the case may be.

(4) Where the net income of a trust estate or a part of that net income, being income in respect of which a person in the capacity of a trustee of a trust estate is liable to be assessed and pay tax pursuant to section 99 of the Assessment Act, exceeds \$416 but does not exceed \$437, the amount of levy payable by the person upon that net income shall not exceed 20% of the amount of the excess.

Amount of levy—person who has spouse or dependants

8. (1) Where a person—

(a) is a legally married person on the last day of the year of income;
or

(b) is entitled to—

(i) a rebate under section 159J of the Assessment Act in respect of a person included in class 2 in the table in sub-section 159J (2) of that Act; or

(ii) a rebate under section 159K or 159L of that Act,
in respect of the year of income,

and the family income in relation to the person does not exceed the family income threshold in relation to the person, no levy is payable by the person upon the taxable income of the person.

(2) Subject to sub-section (3), where a person (in this sub-section referred to as the “relevant person”)—

(a) was a legally married person on the last day of the year of income;
or

(b) is entitled to—

(i) a rebate under section 159J of the Assessment Act in respect of a person included in class 2 in the table in sub-section 159J (2) of that Act; or

(ii) a rebate under section 159K or 159L of that Act,
in respect of the year of income,

and the family income in relation to the relevant person exceeds the family income threshold in relation to the relevant person, the amount of the levy payable by the relevant person upon the taxable income of the relevant person but for this section and section 9 shall be reduced by the amount (if any) calculated in accordance with the formula—

$$A - 19 \frac{(B - C)}{100}, \text{ where—}$$

A is 1% of the family income threshold in relation to the relevant person;

B is the family income in relation to the relevant person; and

C is the family income threshold in relation to the relevant person.

(3) Where—

- (a) but for this sub-section, the amount of levy payable by a person upon the taxable income of the person but for this section and section 9 would be reduced by an amount (in this sub-section referred to as the “reduction amount”) ascertained in accordance with sub-section (2);
- (b) the person was a legally married person on the last day of the year of income; and
- (c) but for this section and section 9, the spouse of the person would be liable to pay levy upon the taxable income of the spouse,

the reduction amount shall, subject to sub-section (4), be reduced by so much of the reduction amount as bears to the reduction amount the same proportion as the amount of the taxable income of the spouse bears to the family income in relation to the person.

(4) Where—

- (a) sub-section (3) applies for the purposes of ascertaining the levy payable by a person upon the taxable income of the person but for section 9; and
- (b) the amount of the reduction of that levy ascertained in accordance with sub-sections (2) and (3) exceeds the amount of the levy payable by the person upon the taxable income of the person but for this section and section 9,

the amount of levy payable by the spouse of the person upon the taxable income of the spouse but for this sub-section and section 9 shall be reduced by the amount of the excess.

(5) In this section—

“family income”, in relation to a person, means—

- (a) if the person was a legally married person on the last day of the year of income—the sum of the taxable income of the person and the taxable income of the spouse of the person; and
- (b) in any other case—the taxable income of the person;

“family income threshold”, in relation to a person (in this definition referred to as the “relevant person”), means \$12,504 increased by \$1,530 for each person included in class 3 or class 4 in the table in sub-section 159J (2) of the Assessment Act in respect of whom—

- (a) in a case to which paragraph (b) does not apply—the relevant person; or
- (b) if the relevant person was a legally married person on the last day of the year of income—the relevant person or the spouse of the relevant person,

would, but for sub-section 159J (1A) of the Assessment Act, be entitled to a rebate of tax under section 159J of the Assessment Act in respect of the year of income.

(6) In the application of the definition of “family income threshold” in sub-section (5) in determining the family income threshold in relation to a person in relation to a year of income, being a person who was not a legally married person on the last day of the year of income, the amount of \$12,504 referred to in that definition shall not be increased on account of another person unless family allowance under Part VI of the *Social Security Act 1947* was payable to the first-mentioned person in respect of that other person in respect of the whole or any part of the year of income.

Reduction of levy—person who is prescribed person for part of year of income

9. In the case of a person who was a prescribed person during a part or parts only of the year of income, the amount of levy payable by the person but for this section shall be reduced by so much of that amount as bears to that amount the same proportion as the number of days in the part, or the sum of the numbers of days in the parts, of the year of income during which the person was a prescribed person bears to the number of days in the year of income.

Levy payable by a trustee assessable under section 98 of the Assessment Act

10. Where a person in the capacity of a trustee of a trust estate is liable to be assessed pursuant to section 98 of the Assessment Act in respect of a share of the net income of the trust estate to which a beneficiary is presently entitled, the amount of levy payable by the trustee upon that share of that net income shall not exceed the amount of levy that would be payable by the beneficiary if the amount of that share were the taxable income of the beneficiary.

Financial years for which levy is payable

11. (1) The levy imposed by this Act is levied, and shall be paid, for the financial year that commenced on 1 July 1985.

(2) Until the Parliament otherwise provides, the levy imposed by this Act is also levied, and shall be paid, for the financial year commencing on 1 July 1986.

*[Minister's second reading speech made in—
House of Representatives on 19 September 1985
Senate on 15 October 1985]*