



Income Tax Rates Amendment (Family Tax Initiative) Act 1996

No. 64, 1996

An Act to amend the *Income Tax Rates Act 1986* for the purposes of a family tax initiative, and for related purposes

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No. 64, 1996

An Act to amend the *Income Tax Rates Act 1986* for the purposes of a family tax initiative, and for related purposes

[Assented to 27 November 1996]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Income Tax Rates Amendment (Family Tax Initiative) Act 1996*.

2 Commencement

This Act commences on 1 January 1997.

3 Family tax initiative

- (1) This Act (together with the *Family (Tax Initiative) Act 1996*) provides for a family tax initiative, consisting of family tax assistance and family tax payment.
- (2) The amendments made by Schedule 1 (together with the amendments made by items 3 to 6 and 10 to 13 of Schedule 1, and Schedule 3, to the *Family (Tax Initiative) Act 1996*) provide for the family tax assistance.
- (3) The amendments made by items 1, 2, 7, 8 and 9 of Schedule 1, and Schedule 2, to the *Family (Tax Initiative) Act 1996* provide for the family tax payment.

4 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendment of the Income Tax Rates Act 1986

1 After section 16

Insert:

16A Division to apply before any tax-free threshold increase under Division 5

If this Division applies in respect of a year of income to a taxpayer to whom section 20C or 20D applies, or would apart from section 20E apply, this Division is to be applied in relation to the taxpayer in respect of that year of income before Division 5 is applied.

2 At the end of Part II

Add:

Division 5—Family tax assistance: increased tax-free threshold for certain taxpayers with dependent children

20A Object of Division

This Division provides for family tax assistance by way of an increased tax-free threshold for certain taxpayers with dependent children.

20B Definitions

In this Division:

dependant has the meaning given by section 20K.

family income ceiling has the meaning given by section 20Q.

lowest marginal rate of tax means the lowest percentage set out in column 2 of the table in clause 1 of Part 1 of Schedule 7.

relevant part of the 1996-97 year of income means the part of that year of income occurring after the commencement of this Division.

relevant period means:

- (a) the relevant part of the 1996-97 year of income; or
- (b) the year of income 1997-98; or
- (c) a later year of income.

spouse, in relation to a taxpayer, does not include a person who lives separately and apart from the taxpayer on a permanent basis.

taxable income, in relation to a beneficiary of a trust estate, includes (except in section 20J) any amount that would have been included in the beneficiary's assessable income under section 100 of the Assessment Act if paragraph 100(1)(b), and the words "or of each of the trust estates" in paragraphs 100(1)(c) and (d), of that Act were omitted.

taxpayer's income ceiling has the meaning given by section 20R.

20C Increase in tax-free threshold

- (1) Subject to this Division, if:
 - (a) a taxpayer who was a resident during the relevant part of the 1996-97 year of income had, during that part of that year of income, at least one dependant; and
 - (b) the taxpayers' taxable income of that year of income or, if the taxpayer had a spouse on the last day of that year of income, the sum of the taxable incomes of that year of income of the taxpayer and that spouse was less than the family income ceiling for the taxpayer for that year of income;the amount of \$5,400 set out in column 1 of the table in clause 1 of Part 1 of Schedule 7 is taken, for the purposes of the application of that Schedule to the taxpayer in respect of that year of income, to be increased by \$500 for each person who, during the relevant part of that year of income, was a dependant of the taxpayer.
- (2) Subject to this Division, if:
 - (a) a taxpayer who was a resident during the 1997-98 year of income or a later year of income had, during that year of income, at least one dependant; and
 - (b) the taxpayers' taxable income of that year of income or, if the taxpayer had a spouse on the last day of that year of income, the sum of the taxable incomes of that year of income of the taxpayer and that spouse was less than the family income ceiling for the taxpayer for that year of income;

the amount of \$5,400 set out in column 1 of the table in clause 1 of Part 1 of Schedule 7 is, for the purposes of the application of that Schedule to the taxpayer in respect of that year of income, taken to be increased by \$1,000 for each person who, during that year of income, was a dependant of the taxpayer.

20D Further increase in tax-free threshold

(1) Subject to this Division, if:

- (a) a taxpayer who was a resident during the relevant part of the 1996-97 year of income had, during that part of that year of income, at least one dependant under the age of 5 years; and
- (b) the taxpayers' taxable income of that year of income was less than the taxpayers' income ceiling for that year of income; and
- (c) in respect of a taxpayer who had a spouse on the last day of that year of income—the spouse's taxable income of that year of income was less than the spouse income ceiling for that year of income;

the amount of \$5,400 set out in column 1 of the table in clause 1 of Part 1 of Schedule 7 is, for the purposes of the application of that Schedule to the taxpayer in respect of that year of income, in addition to any amount by which that amount of \$5,400 is increased under section 20C, taken to be increased by \$1,250.

(2) Subject to this Division, if:

- (a) a taxpayer who was a resident during the 1997-98 year of income or a later year of income had, during that year of income, at least one dependant under the age of 5 years; and
- (b) the taxpayers' taxable income of that year of income was less than the taxpayers' income ceiling for that year of income; and
- (c) in respect of a taxpayer who had a spouse on the last day of that year of income—that spouse's taxable income of that year of income was less than the spouse income ceiling for that year of income;

the amount of \$5,400 set out in column 1 of the table in clause 1 of Part 1 of Schedule 7 is, for the purposes of the application of that Schedule to the taxpayer in respect of that year of income, in addition to any amount by which that amount of \$5,400 is increased under section 20C, taken to be increased by \$2,500.

- (3) In calculating the taxable income of a year of income of a taxpayers' spouse for the purposes of this section, any amount of Commonwealth pension, benefit or allowance included in that spouse's assessable income of that year of income is taken not to have been so included.
- (4) For the purposes of this section, the *spouse income ceiling* for a year of income is the amount worked out using the formula:

Income ceiling of the breadwinner's partner \times 26

where:

income ceiling of the breadwinner's partner means the amount per fortnight worked out under the Method statement in Table E of point 1070-E5 of the Rate Calculator at the end of section 1070 of the *Social Security Act 1991*.

The reference in that table to the *current maximum basic component of parenting allowance* is a reference to the amount of that component on 21 March in the year of income.

- (5) In this section:

Commonwealth labour market program means a program administered by the Commonwealth under which:

- (a) unemployed people are trained in skills to improve their prospects of obtaining employment; or
- (b) unemployed people are helped to obtain employment; or
- (c) employed people are trained in skills, or given other assistance, to help them in continuing to be employed by their current employer or in obtaining other employment.

Commonwealth pension, benefit or allowance means any of the following payments:

- (a) a payment that is a rebatable benefit within the meaning of section 160AAA of the Assessment Act;
- (b) a payment that is a rebatable pension within the meaning of section 160AAA of the Assessment Act;
- (c) a non-subsidised payment by the Commonwealth of an allowance or reimbursement to, or to a person on behalf of, a participant in a Commonwealth labour market program;
- (d) a non-subsidised payment by the Commonwealth of an allowance or reimbursement to, or to a person on behalf of, a student under a scheme of assistance to students, other than a payment:

- (i) by way of a scholarship or bursary; or
- (ii) made on the condition that the student, or the person receiving the payment on behalf of the student, will (if required) render services to the Commonwealth.

non-subsidised payment means a payment made to a person who is not an employee, or receives the payment on behalf of another person who is not an employee, of someone who is entitled to a Commonwealth subsidy in respect of the employment.

20E Where adjusted tax-free threshold exceeds \$20,700

- (1) If the adjusted tax-free threshold of a taxpayer to whom, apart from this subsection, section 20C or 20D would apply exceeds \$20,700, those sections do not apply to the taxpayer but the following provisions of this section have effect.
- (2) The table in clause 1 of Part 1 of Schedule 7 is taken, for the purposes of the application of that clause to the taxpayer, to be replaced by the following table:

Column 1	Column 2
Parts of ordinary taxable income of taxpayer	% rate
The part of the ordinary taxable income that:	
exceeds \$20,700 but does not exceed the adjusted tax-free threshold	14%
exceeds the adjusted tax-free threshold but does not exceed \$38,000	34%
exceeds \$38,000 but does not exceed \$50,000	43%
exceeds \$50,000	47%

- (3) In this section:
adjusted tax-free threshold means the amount worked out using the formula:

$$\$5,400 + \text{Tax - free threshold increase}$$

tax-free threshold increase means the sum of the amounts by which, subject to this Division, the amount of \$5,400 set out in column 1 of the table in clause 1 of Part 1 of Schedule 7 would be taken to be increased in relation to the taxpayer in respect of the year of income under sections 20C and 20D if those sections applied to the taxpayer.

20F Where taxable income includes special income or capital gains component

- (1) If the taxable income of a year of income of a taxpayer to whom section 20C or 20D applies, or would apart from section 20E apply, consists of or includes a special income component, sections 20C, 20D and 20E do not apply, but the rate of tax for every \$1 of the taxable income, as worked out under clause 2 or 3 of Part 1 of Schedule 7, clause 2 of Part 1 of Schedule 9 or clause 3 of Part 1 of Schedule 11, as the case may be, and apart from sections 20C, 20D and 20E, is reduced by the rate worked out using the formula:

$$\frac{\text{Tax - free threshold increase}}{\text{Taxable income}} \times \text{Lowest marginal rate of tax}$$

- (2) If:
- (a) a trustee of a trust estate is liable to be assessed and to pay tax under section 98 of the Assessment Act in respect of a share of a resident beneficiary of the net income of the trust estate of a year of income; and
 - (b) Division 6AA of Part III of that Act applies to a part of that share; and
 - (c) that share consists of or includes a capital gains component; and
 - (d) section 20C or 20D applies, or would apart from section 20E apply, to the beneficiary;

sections 20C, 20D and 20E do not apply, but the rate of tax for every \$1 of the share, as worked out under clause 3 of Part 1 of Schedule 12 and apart from sections 20C, 20D and 20E, is reduced by the rate worked out using the formula:

$$\frac{\text{Tax - free threshold increase}}{\text{Share of net income}} \times \text{Lowest marginal rate of tax}$$

- (3) In this section:
- tax-free threshold increase* means the number of whole dollars in the sum of the amounts by which, subject to this Division, the amount of \$5,400 set out in column 1 of the table in clause 1 of Part 1 of Schedule 7 is increased in relation to the taxpayer in respect of the year of income under sections 20C and 20D, or would be so increased if those sections applied to the taxpayer.

taxable income means the number of whole dollars in the taxpayers' taxable income of the year of income.

share of net income means the number of whole dollars in the beneficiary's share of the net income of the trust estate of the year of income.

20G Complementary tax

(1) If:

- (a) a taxpayer to whom section 20C or 20D applies, or would apart from section 20E apply, in respect of a year of income is liable to pay complementary tax under subsection 156(4A) of the Assessment Act in respect of the whole or a part of the taxable income of the year of income; and
- (b) the adjusted tax-free threshold exceeds the taxable income; and
- (c) the taxable income exceeds \$5,400;

the rate of complementary tax, as determined under subsection 12(3), is reduced by the rate worked out using the formula:

$$\frac{(\text{Adjusted tax-free threshold} - \text{Taxable income})}{\text{Deemed taxable income from primary production}} \times \text{Lowest marginal rate of tax}$$

(2) If:

- (a) a taxpayer to whom section 20C or 20D applies, or would apart from section 20E apply, in respect of a year of income is liable to pay complementary tax under subsection 156(4A) of the Assessment Act in respect of the whole or a part of the taxable income of the year of income; and
- (b) the adjusted tax-free threshold exceeds the taxable income; and
- (c) the taxable income does not exceed \$5,400;

the rate of complementary tax, as determined under subsection 12(3), is reduced by the rate worked out using the formula:

$$\frac{\text{Tax-free threshold increase}}{\text{Deemed taxable income from primary production}} \times \text{Lowest marginal rate of tax}$$

(3) If:

- (a) a trustee of a trust estate is liable to be assessed and to pay tax under subsection 98(1) or (2) of the Assessment Act in respect of a beneficiary's share of the net income of a trust estate of the year of income; and
 - (b) the trustee is liable to pay complementary tax under subsection 156(5A) of that Act in respect of the share; and
 - (c) section 20C or 20D applies, or would apart from section 20E apply, to the beneficiary; and
 - (d) the adjusted tax-free threshold exceeds the share of net income; and
 - (e) the share of net income exceeds \$5,400;
- the rate of complementary tax, as determined under subsection 12(4), is reduced by the rate worked out using the formula:

$$\frac{(\text{Adjusted tax-free threshold} - \text{Share of net income})}{\text{Deemed net income from primary production}} \times \text{Lowest marginal rate of tax}$$

(4) If:

- (a) a trustee of a trust estate is liable to be assessed and to pay tax under subsection 98(1) or (2) of the Assessment Act in respect of a beneficiary's share of the net income of a trust estate of the year of income; and
 - (b) the trustee is liable to pay complementary tax under subsection 156(5A) of that Act in respect of the share; and
 - (c) section 20C or 20D applies, or would apart from section 20E apply, to the beneficiary; and
 - (d) the adjusted tax-free threshold exceeds the share of net income; and
 - (e) the share of net income does not exceed \$5,400;
- the rate of complementary tax, as determined under subsection 12(4), is reduced by the rate worked out using the formula:

$$\frac{\text{Tax-free threshold increase}}{\text{Deemed net income from primary production}} \times \text{Lowest marginal rate of tax}$$

(5) In this section:

adjusted tax-free threshold means the number of whole dollars in the amount worked out using the formula:

$$\$5,400 + \text{tax - free threshold increase}$$

tax-free threshold increase means the number of whole dollars in the sum of the amounts by which, subject to this Division, the amount of \$5,400 set out in column 1 of the table in clause 1 of Part 1 of Schedule 7 is increased in relation to the taxpayer in respect of the year of income under sections 20C and 20D, or would be so increased if those sections applied to the taxpayer.

taxable income means the number of whole dollars in the taxpayers' taxable income of the year of income.

deemed taxable income from primary production means the number of whole dollars in the amount that is the deemed taxable income from primary production of the taxpayer of the year of income for the purposes of section 156 of the Assessment Act.

share of net income means the number of whole dollars in the beneficiary's share of the net income of the trust estate of the year of income.

deemed net income from primary production means the number of whole dollars in the amount that is the deemed net income from primary production of the trust estate of the year of income for the purposes of section 156 of the Assessment Act.

20H Notional income

If a taxpayer to whom section 20C or 20D applies, or would apart from section 20E apply, has in a year of income a notional income as determined under section 59AB or 86 of the Assessment Act, sections 20C, 20D and 20E do not apply, but the rate of tax for every \$1 of the ordinary taxable income, as worked out under clause 1 of Part 1 of Schedule 9 and apart from sections 20C, 20D and 20E, is reduced by the rate worked out using the formula:

$$\frac{\text{Tax - free threshold increase}}{\text{Ordinary taxable income}} \times \text{Lowest marginal rate of tax}$$

where:

tax-free threshold increase means the number of whole dollars in the sum of the amounts by which, subject to this Division, the

amount of \$5,400 set out in column 1 of the table in clause 1 of Part 1 of Schedule 7 is increased in relation to the taxpayer in respect of the year of income under sections 20C and 20D, or would be so increased if those sections applied to the taxpayer.

ordinary taxable income means the number of whole dollars in the taxpayers' ordinary taxable income of the year of income.

20J Trustee assessment where section 20C or 20D applies to beneficiary

- (1) If:
 - (a) a trustee is liable to be assessed and to pay tax under section 98 of the Assessment Act in respect of a share of a resident beneficiary of the net income of a trust estate; and
 - (b) section 20C or 20D applies, or would apart from section 20E apply, to the beneficiary;

the references in clause 1 of Part 1 of Schedule 10 and clauses 1 and 3 of Part 1 of Schedule 12 to one individual are taken to be references to the beneficiary.

- (2) For the purpose of determining whether section 20C or 20D applies, or would apart from section 20E apply, to the beneficiary, the beneficiary's taxable income is taken to be the beneficiary's share of the net income of the trust estate in respect of which the trustee is liable to be assessed and to pay tax under section 98 of the Assessment Act.

20K Dependants

- (1) Subject to this section, a person is a *dependant* of a taxpayer during a period for the purposes of this Division only if, during that period:
 - (a) either:
 - (i) the person was under the age of 16 years; or
 - (ii) the person had reached the age of 16 years, was under the age of 18 years and was receiving full-time secondary education; and
 - (b) the person was a resident; and
 - (c) the taxpayer contributed to the maintenance of the person.
- (2) The spouse of a taxpayer is not a *dependant* of the taxpayer for the purposes of this Division.

- (3) If:
- (a) a person to whom paragraphs (1)(a) and (b) apply and a taxpayer resided together during a period; and
 - (b) the person referred to in paragraph (a) derived income during the period;
- the taxpayer is taken to have contributed to the maintenance of the person during the period unless the contrary is established to the satisfaction of the Commissioner.
- (4) A person is taken not to be a *dependant* of a taxpayer for the purposes of this Division during a period that is, or occurs during, the relevant part of the 1996-97 year of income if:
- (a) in respect of a person who, during that year of income, had not reached the age of 16 years and did not receive full-time education—the amount that would have been the person's taxable income of that period if that period had been a year of income exceeded the dependant (under 16) ceiling for that period; or
 - (b) in respect of a person who, before or during that year of income, reached the age of 16 years—the amount that would have been the person's taxable income of that period if that period had been a year of income exceeded the dependant (over 16) ceiling for that period.
- (5) A person is taken not to be a *dependant* of a taxpayer for the purposes of this Division during a period that is, or occurs during, the 1997-98 year of income or a later year of income if:
- (a) in respect of a person who, during the year of income concerned had not reached the age of 16 years and did not receive full-time education:
 - (i) where the period is the year of income concerned—the person's taxable income of that year of income exceeded the dependant (under 16) ceiling for that year of income; or
 - (ii) where the period occurs during the year of income concerned—the amount that would have been the person's taxable income of that period if that period had been a year of income exceeded the dependant (under 16) ceiling for that period; or
 - (b) in respect of a person who, before or during the year of income concerned, reached the age of 16 years:
 - (i) where the period is the year of income concerned—the person's taxable income of that year of income

exceeded the dependant (over 16) ceiling for the year of income; or

- (ii) where the period occurs during the year of income concerned—the amount that would have been the person's taxable income of that period if that period had been a year of income exceeded the dependant (over 16) ceiling for that period.

- (6) In calculating a person's taxable income of a year of income for the purposes of this section, any amount of Commonwealth assistance included in the person's assessable income of that year of income is taken not to have been so included.
- (7) This section has effect subject to sections 20L, 20M, 20N and 20P.
- (8) In this section:

annual young person ceiling means the amount applicable under paragraph 5(4)(b) of the *Social Security Act 1991* (after indexation under that Act) on 2 January in the year of income.

Commonwealth assistance means a payment by the Commonwealth of an allowance or reimbursement to, or to a person on behalf of, a student under a scheme of assistance to students, other than a payment:

- (a) by way of a scholarship or bursary; or
- (b) made on condition that the student, or the person receiving the payment on behalf of the student, will (if required) render services to the Commonwealth.

dependant (over 16) ceiling, in relation to a period that is the relevant part of the 1996-97 year of income, means the amount worked out using the formula:

$$\frac{\text{Annual young person ceiling}}{2}$$

dependant (over 16) ceiling, in relation to a period that occurs during the relevant part of the 1996-97 year of income, means the amount worked out using the formula:

$$\frac{\text{Annual young person ceiling}}{2} \times \frac{\text{Number of days in period}}{181}$$

dependant (over 16) ceiling, in relation to a period that is the 1997-98 year of income or a later year of income, means the annual young person ceiling.

dependant (over 16) ceiling, in relation to a period that occurs during the 1997-98 year of income or during a later year of income, means the amount worked out using the formula:

$$\text{Annual young person ceiling} \times \frac{\text{Number of days in period}}{365}$$

dependant (under 16) ceiling, in relation to a period that is the relevant part of the 1996-97 year of income, means the amount worked out using the formula:

$$\text{Weekly young person ceiling} \times 26$$

dependant (under 16) ceiling, in relation to a period that occurs during the relevant part of the 1996-97 year of income, means the amount worked out using the formula:

$$\text{Weekly young person ceiling} \times 26 \times \frac{\text{Number of days in period}}{181}$$

dependant (under 16) ceiling, in relation to a period that is the 1997-98 year of income or a later year of income, means the amount worked out using the formula:

$$\text{Weekly young person ceiling} \times 52$$

dependant (under 16) ceiling, in relation to a period that occurs during the 1997-98 year of income or during a later year of income, means the amount worked out using the formula:

$$\text{Weekly young person ceiling} \times 52 \times \frac{\text{Number of days in period}}{365}$$

weekly young person ceiling means the amount per week applicable under paragraph 5(3)(c) of the *Social Security Act 1991* (after indexation under that Act) on 2 January in the year of income.

20L Where a person is a dependant of 2 or more persons who do not reside together

- (1) This section applies to a person (the *child*) in respect of a period (the *allocation period*) that is, or is a part of, a relevant period if, during the allocation period, the child would, apart from this section, be a dependant of each of 2 or more persons (the *relevant persons*) who do not all reside together.
- (2) Subject to subsections (3) and (4), the child is taken to be a dependant of a relevant person only during a number of days in the allocation period (the *number of days of care*) equal to the number of nights in that period for which the relevant person had the care of the child.
- (3) Subject to subsection (4), a child is taken not to be a dependant of a relevant person during any part of the allocation period if the number of days of care is less than 30% of the number of days in the allocation period.
- (4) If, as a result of the application of subsections (2) and (3), the child is taken to be a dependant of one only of the relevant persons, the child is taken to be a dependant of that person during the whole of the allocation period.
- (5) For the purposes of subsection (1), persons who ordinarily reside together are taken to reside together during any period in which they are temporarily residing apart.

20M Where a person is a dependant of 2 or more persons who reside together and section 20D applies to one only of them

- (1) This section applies to a person (the *child*) in respect of a period (the *allocation period*) that is a relevant period, or is a part of a relevant period that includes the last day of the relevant period, if, during the allocation period:
 - (a) the child is, or apart from section 20L would be, a dependant of a person (the *relevant person*); and
 - (b) the child would, apart from this section and section 20L, also be a dependant of another person or other persons; and
 - (c) the relevant person and the other person or other persons reside together.
- (2) If subsection 20D(1) or (2) applies to the relevant person in respect of the year of income that is the allocation period or in which the allocation period occurs but does not apply to the other person or any of the other persons in respect of that year of income, the child

is taken not to be a dependant of the other person or any of the other persons during the allocation period.

- (3) If:
- (a) the child is taken not to be a dependant of the other person or any of the other persons during the allocation period because of the operation of subsection (2); and
 - (b) another person (the *other child*) is a dependant, or other persons (the *other children*) are dependants, of the relevant person and would, apart from this section, also be a dependant or dependants of the other person or any of the other persons during any period in which they reside together that is the whole or a part of the relevant period;
- the other child is also taken not to be a dependant, or the other children are also taken not to be dependants, of the other person or any of the other persons during the allocation period.
- (4) For the purposes of paragraph (1)(c), persons who ordinarily reside together are taken to reside together during any period in which they are temporarily residing apart.
- (5) For the purpose only of determining whether a period includes the last day of a relevant period, if a person (the *child*) who ceases during the relevant period but before that day to be a dependant of another person merely because the child dies or ceases to be a person to whom subsection 20K(1) applies, the child is taken to continue to be a dependant of the other person until the end of the relevant period.

20N Where a person to whom section 20M does not apply is a dependant of 2 or more persons who reside together and make an agreement about dependency

- (1) This section applies to a person (the *child*) in respect of a period (the *allocation period*) that is, or is a part of, a relevant period if:
- (a) the child would, apart from this section and section 20L, be a dependant of 2 or more persons (the *relevant persons*) during the allocation period; and
 - (b) the relevant persons reside together during the allocation period; and
 - (c) section 20M does not apply to the child; and
 - (d) the relevant persons have made a written agreement (the *family agreement*) in accordance with subsection (2) in relation to the child nominating one of them (the *nominee*) as

the person of whom the child is the dependant in respect of the allocation period.

- (2) The family agreement must be made on or before:
 - (a) the day on which the first return of income of any of the relevant persons was lodged for:
 - (i) if the allocation period is, or occurs in, the relevant part of the 1996-97 year of income—that year of income; or
 - (ii) if the allocation period is, or occurs in, the 1997-98 year of income or a later year of income—that year of income; or
 - (b) such later day as the Commissioner allows.
- (3) Subject to this section, the child is taken, in respect of the allocation period, to be the dependant of the nominee and not to be the dependant of the other relevant person or any of the other relevant persons.
- (4) Subsection (3) does not apply in respect of the child unless:
 - (a) there is no person (other than the child) who would, apart from this section, be a dependant of all the relevant persons during any period in which they reside together that is the whole or a part of the relevant period; or
 - (b) if there is any such person (the *other child*) or there are any such persons (the *other children*)—the agreement nominates the nominee as the person of whom the other child is the dependant, or the other children are the dependants, in respect of any period referred to in paragraph (a).
- (5) Subsection (3) does not apply, and is taken never to have applied, if none of the relevant persons retain the family agreement for the period of 5 years starting on the day on which the agreement was made.
- (6) If the family agreement is lost or destroyed and the Commissioner is satisfied that one of the relevant persons has a document (the *substitute family agreement*) that:
 - (a) is a copy of the family agreement; or
 - (b) properly records all the matters set out in the family agreement and was in existence when the family agreement was lost or destroyed;the substitute family agreement is taken, for the purposes of this section, to be, and to have been at all times after the family agreement was lost or destroyed, the family agreement.

- (7) If:
- (a) the family agreement is lost or destroyed; and
 - (b) the Commissioner is satisfied that the loss or destruction occurred because of circumstances beyond the control of the relevant persons; and
 - (c) subsection (6) does not apply;
- the operation of subsection (3) is not affected, and is taken never to have been affected, by subsection (5).
- (8) Section 170 does not prevent the amendment of an assessment at any time for the purposes of giving effect to this section.
- (9) For the purposes of this section, persons who ordinarily reside together are taken to reside together during any period in which they are temporarily residing apart.

20P Where a person is a dependant of 2 or more persons who reside together and do not make an agreement about dependency

- (1) This section applies to a person (the *child*) in respect of a period (the *allocation period*) that is, or is a part of, a relevant period if:
- (a) the child would, apart from this section and section 20L, be a dependant of 2 or more persons (the *relevant persons*) during the allocation period; and
 - (b) the relevant persons reside together during the allocation period; and
 - (c) the relevant persons have not made a written agreement in relation to the child as mentioned in paragraph 20N(1)(d).
- (2) Subject to subsection (3), the child is taken, in respect of the allocation period, not to be a dependant of any of the relevant persons.
- (3) If:
- (a) the allocation period does not include the last day of the relevant period; or
 - (b) the following subparagraphs apply:
 - (i) the allocation period includes the last day of the relevant period;
 - (ii) section 20M does not apply to the child;
 - (iii) the Commissioner is satisfied that the reason why the relevant persons did not make the agreement referred to

in paragraph (1)(c) was that they did not reside together after the relevant period;
then, the child is taken to be a dependant of each of the relevant persons during a part of the allocation period consisting of the number of days worked out using the formula:

$$\frac{\text{Number of days in the allocation period}}{\text{Number of relevant persons}}$$

- (4) For the purposes of the formula in subsection (3), the number of days in the allocation period is taken to be reduced by the number of days (if any) in that period during which the child is taken under section 20L not to be the dependant of any of the relevant persons.
- (5) For the purposes of this section, persons who ordinarily reside together are taken to reside together during any period in which they are temporarily residing apart.
- (6) For the purpose only of determining whether a period includes the last day of a relevant period, if a person (the *child*) who ceases during the relevant period but before that day to be a dependant of another person merely because the child dies or ceases to be a person to whom subsection 20K(1) applies, the child is taken to continue to be a dependant of the other person until the end of the relevant period.

20Q Family income ceiling

- (1) Subject to subsection (2), the *family income ceiling* for a taxpayer for the purposes of the application of subsection 20C(1) for the 1996-97 year of income is \$70,000.
- (2) If a taxpayer had more than one dependant at any time during the relevant part of the 1996-97 year of income, the *family income ceiling* for the taxpayer, for the purposes of the application of subsection 20C(1) for that year of income, is the amount worked out using the formula:

$$\$70,000 + \$3,000 \left(\text{Number of dependants} - 1 \right)$$

where:

number of dependants means the maximum number of dependants that the taxpayer had at any time during the relevant part of that year of income.

- (3) Subject to subsection (4), the **family income ceiling** for a taxpayer for the purposes of the application of subsection 20C(2) for the 1997-98 year of income or a later year of income is \$70,000.
- (4) If a taxpayer had more than one dependant at any time during the 1997-98 year of income or a later year of income, the **family income ceiling** for the taxpayer for the purposes of the application of subsection 20C(2), for the year of income concerned is the amount worked out using the formula:

$$\$70,000 + \$3,000 \left(\text{Number of dependants} - 1 \right)$$

where:

number of dependants means the maximum number of dependants that the taxpayer had at any time during the year of income concerned.

20R Taxpayer's income ceiling

- (1) Subject to subsection (2), the **taxpayers' income ceiling** for a taxpayer for the purposes of the application of subsection 20D(1) for the 1996-97 year of income is \$65,000.
- (2) If a taxpayer had more than one dependant at any time during the relevant part of the 1996-97 year of income, the **taxpayers' income ceiling** for the taxpayer for the purposes of the application of subsection 20D(1) for that year of income is the amount worked out using the formula:

$$\$65,000 + \$3,000 \left(\text{Number of dependants} - 1 \right)$$

where:

number of dependants means the maximum number of dependants that the taxpayer had at any time during the relevant part of that year of income.

- (3) Subject to subsection (4), the **taxpayers' income ceiling** for a taxpayer, for the purposes of the application of subsection 20D(2), for the 1997-98 year of income or a later year of income is \$65,000.

- (4) If a taxpayer had more than one dependant at any time during the 1997-98 year of income or a later year of income, the *taxpayers' income ceiling* for the taxpayer, for the purposes of the application of subsection 20D(2) for the year of income concerned, is the amount worked out using the formula:

$$\$65,000 + \$3,000 \left(\text{Number of dependants} - 1 \right)$$

where:

number of dependants means the maximum number of dependants that the taxpayer had at any time during the year of income concerned.

20S Person a dependant for part only of relevant period

- (1) This section has effect for the purposes of the application of section 20C in respect of a relevant period to a taxpayer in relation to a person (the *child*) if the child was a dependant of the taxpayer during part only of the relevant period.
- (2) If the relevant period is the relevant part of the 1996-97 year of income, subsection 20C(1) has effect as if the amount of \$500 referred to in that subsection were replaced by the amount worked out using the following formula:

$$\$500 \times \frac{\text{Period of dependency}}{181}$$

where:

period of dependency means the number of days in the relevant period on which the child was a dependant of the taxpayer.

- (3) If the relevant period is the 1997-98 year of income or a later year of income, subsection 20C(2) has effect as if the amount of \$1,000 referred to in that subsection were replaced by the amount worked out using the following formula:

$$\$1,000 \times \frac{\text{Period of dependency}}{365}$$

where:

period of dependency means the number of days in the relevant period on which the child was a dependant of the taxpayer.

- (4) If the amount worked out under subsection (2) or (3) is an amount of dollars and cents, the amount is to be rounded up to the nearest whole dollar.

20T Taxpayer qualified under section 20D for part only of relevant period

- (1) This section has effect for the purposes of the application of section 20D in respect of a relevant period to a taxpayer if the taxpayer had, during part only of the relevant period, at least one dependant under the age of 5 years.
- (2) If the relevant period is the relevant part of the 1996-97 year of income, subsection 20D(1) has effect as if the amount of \$1,250 referred to in that subsection were replaced by the amount worked out using the following formula:

$$\$1,250 \times \frac{\text{Period of dependency}}{181}$$

where:

period of dependency means the number of days in the relevant period on which the taxpayer had at least one dependant under the age of 5 years.

- (3) If the relevant period is the 1997-98 year of income or a later year of income, subsection 20D(2) has effect as if the amount of \$2,500 referred to in that subsection were replaced by the amount worked out using the following formula:

$$\$2,500 \times \frac{\text{Period of dependency}}{365}$$

where:

period of dependency means the number of days in the relevant period on which the taxpayer had at least one dependant under the age of 5 years.

- (4) If the amount worked out under subsection (2) or (3) is an amount of dollars and cents, the amount is to be rounded up to the nearest whole dollar.

20U Provision applying where family tax payments received under Social Security Act

(1) In this section:

section 20C tax-free threshold increase means the amount (if any) by which the amount of \$5,400 in column 1 of the table in clause 1 of Part 1 of Schedule 7 would, apart from this section, be increased by section 20C or be increased by that section if it applied to the taxpayer.

section 20D tax-free threshold increase means the amount (if any) by which the amount of \$5,400 in column 1 of the table in clause 1 of Part 1 of Schedule 7 would, apart from this section, be increased by section 20D or be increased by that section if it applied to the taxpayer.

(2) If, during the relevant part of the 1996-97 year of income or during the 1997-98 year of income or a later year of income:

- (a) the taxpayer or his or her spouse received any payments of family tax payment under the *Social Security Act 1991*; or
- (b) another person received any payments of family tax payment under the *Social Security Act 1991* in respect of a child at a time when:
 - (i) the taxpayer and the other person resided together; and
 - (ii) the child was a dependant of each of them;

the following provisions have effect.

(3) Any section 20C tax-free threshold increase in relation to the taxpayer in respect of the year of income concerned is reduced (but not below nil) by the amount worked out using the formula:

$$\text{Part A payments} \times \frac{100}{\text{The number per cent that is the lowest marginal rate of tax}}$$

where:

Part A payments means the sum of so much of the payments of family tax payment as represented payments made at the fortnightly Part A rate of family tax payment referred to in Module A of the Family Tax Payment Rate Calculator at the end of section 1070 of the *Social Security Act 1991*.

- (4) Any section 20D tax-free threshold increase in relation to the taxpayer in respect of the year of income concerned is reduced (but not below nil) by the amount worked out using the formula:

$$\text{Part B payments} \times \frac{100}{\text{The number per cent that is the lowest marginal rate of tax}}$$

where:

Part B payments means the sum of so much of the payments of family tax payment as represented payments made at the fortnightly Part B rate of family tax payment referred to in Module A of the Family Tax Payment Rate Calculator at the end of section 1070 of the *Social Security Act 1991*.

- (5) If an amount worked out under subsection (3) or (4) is an amount of dollars and cents, the amount is to be rounded up to the nearest whole dollar.

20V Quotation of spouse's tax file number

- (1) A taxpayer's spouse may tell the taxpayer the spouse's tax file number for the purposes of this Division.
- (2) A taxpayer may, but is not obliged to, quote the spouse's tax file number for the purposes of this Division.

3 Clause 2 of Division 1 of Part I of Schedule 8

Omit "The notional", substitute "Subject to clause 3, the notional".

4 After Clause 2 of Division 1 of Part I of Schedule 8

Insert:

3. The notional rate in respect of income to which this Division applies is to be calculated under clause 2 as if Division 5 of Part II had not been enacted.

[*Minister's second reading speech made in—
House of Representatives on 11 September 1996
Senate on 11 October 1996*]