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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

FAIRER PRIVATE HEALTH INSURANCE INCENTIVES BILL 2011

FAIRER PRIVATE HEALTH INSURANCE INCENTIVES (MEDICARE LEVY SURCHARGE) BILL 2011

FAIRER PRIVATE HEALTH INSURANCE INCENTIVES (MEDICARE LEVY SURCHARGE — FRINGE BENEFITS) BILL 2011

EXPLANATORY MEMORANDUM

(Circulated by the authority of the
Deputy Prime Minister and Treasurer, the Hon Wayne Swan MP, and the Minister for Health and Ageing, the Hon Nicola Roxon MP)

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Glossary

The following abbreviations and acronyms are used throughout this explanatory memorandum.

Abbreviation	***Definition***
Commissioner	Commissioner of Taxation
ITAA 1997	*Income Tax Assessment Act 1997*
MLA 1986	*Medicare Levy Act 1986*
PHII	private health insurance incentive
PHIIB	private health insurance incentive beneficiary
TAA 1953	*Taxation Administration Act 1953*

General outline and financial impact

Introduction of Private Health Insurance Incentives Tiers

Schedule 1 to the Fairer Private Health Insurance Incentives Bill 2011 amends various Acts to give effect to the measure, announced in the 2009-10 Budget, to introduce three new 'Private Health Insurance Incentive Tiers'. These changes will ensure that those with a greater capacity to pay make a larger contribution towards the cost of their private health insurance. It will also ensure that Government support for private health insurance remains fair and sustainable in the future.

Schedule 1 to the Fairer Private Health Insurance Incentives (Medicare Levy Surcharge) Bill 2011 and the Fairer Private Health Insurance Incentives (Medicare Levy Surcharge — Fringe Benefits) Bill 2011 amends the *Medicare Levy Act 1986* and the *A New Tax System (Medicare Levy Surcharge — Fringe Benefits) Act 1999* respectively to give effect to the introduction of the three new private health insurance tiers.

Date of effect: These amendments apply from 1 January 2012.

Proposal announced: This measure was announced in the Treasurer and the Minister for Health and Ageing's joint Media Release No. 048 of 12 May 2009.

Financial impact: The changes to the private health insurance rebate and Medicare levy surcharge will have these budgetary implications:

2011-12	***2012-13***	***2013-14***	***2014-15***
\$369.6m	\$768.4m	\$817.1m	\$828.6m

Compliance cost impact: This measure is expected to result in a medium overall compliance cost impact, comprising a medium implementation impact and a low increase in ongoing compliance costs relative to the size of the affected group.

Chapter 1
Introduction of Private Health Insurance Incentives Tiers

Outline of chapter

1.1 The Fairer Private Health Insurance Incentives Bill 2011, the Fairer Private Health Insurance Incentives (Medicare Levy Surcharge) Bill 2011 and the Fairer Private Health Insurance Incentives (Medicare Levy Surcharge — Fringe Benefits) Bill 2011 amend various Acts to implement three new Private Health Insurance Incentive Tiers.

- Tier 1: singles whose income for surcharge purposes is from $80,001 per annum to $93,000 per annum inclusive and couples/families whose income for surcharge purposes is from $160,001 per annum to $186,000 per annum inclusive in the 2011-12 financial year, who hold a complying private health insurance policy, will have their private health insurance rebate reduced by 10 percentage points in relation to premiums and amounts in respect of premiums paid on and after 1 January 2012. The Medicare levy surcharge will remain at 1 per cent for singles and couples/families who fall within tier 1 that do not hold appropriate private health insurance.

- Tier 2: singles whose income for surcharge purposes is from $93,001 per annum to $124,000 per annum inclusive and couples/families whose income for surcharge purposes is from $186,001 per annum to $248,000 per annum inclusive in the 2011-12 financial year who hold a complying private health insurance policy, will have their private health insurance rebate reduced by 20 percentage points in relation to premiums and amounts in respect of premiums paid on and after 1 January 2012. From 1 January 2012, the Medicare levy surcharge will be increased by 0.25 percentage points to 1.25 per cent for singles and couples/families who fall within tier 2 that do not hold appropriate private health insurance.

- Tier 3: singles whose income for surcharge purposes is from $124,001 per annum and over and couples/families whose income for surcharge purposes of $248,001 per annum and over in the 2011-12 financial year who hold a complying private health insurance policy, will no longer receive any private health insurance rebate in relation to premiums and amounts in respect of premiums paid on and after 1 January 2012. From 1 January 2012, the Medicare levy surcharge will be increased by 0.5 percentage points to 1.5 per cent for singles and couples/families who fall within tier 3 that do not hold appropriate private health insurance.

1.2 In future years the tier thresholds will be indexed to average weekly ordinary time earnings.

1.3 Existing private health insurance rebate arrangements will remain unchanged for singles with income for surcharge purposes of less than $80,001 per annum and couples/families with a combined income for surcharge purposes of less than $160,001 per annum in the 2011-12 financial year and who hold a complying health insurance policy. Singles and couples/families with a combined income for surcharge purposes below these thresholds will continue not to be liable for the Medicare levy surcharge if they do not hold complying health insurance.

Context of amendments

Private health insurance rebate

1.4 The private health insurance rebate provides a reduction in the cost of private health insurance premiums for people who are eligible for Medicare and who have a complying health insurance policy.

1.5 The amount of private health insurance rebate to which a person is entitled for an income year varies according to the age of the oldest person covered by the policy:

- when the oldest person covered by the policy is aged less than 65 years, a taxpayer is entitled to a rebate equal to 30 per cent of the amount of premium;
- when the oldest person covered by the policy is aged 65 years or over but less than 70 years, a taxpayer is entitled to a rebate equal to 35 per cent of the amount of the premium; and
- when the oldest person covered by the policy is aged 70 years or over, a taxpayer is entitled to a rebate equal to 40 per cent of the amount of the premium.

1.6 The private health insurance rebate can be claimed in relation to a complying health insurance policy offered by a registered health insurer that provides hospital cover, general treatment cover ('ancillary' or 'extras') or both (combined).

1.7 The private health insurance rebate can be claimed either as a direct reduction in the cost of a complying health insurance premium, as an incentive payment through the Department of Human Services, or as a refundable tax offset.

Medicare levy surcharge

1.8 The Medicare levy surcharge imposes a 1 per cent increase in Medicare levy liability on certain taxpayers.

1.9 From 1 July 2009, the income test used to determine a person's liability for the Medicare levy surcharge was expanded to include: taxable income, reportable fringe benefits, reportable employer superannuation contributions and total net investment losses. A person with income for Medicare levy surcharge purposes above the relevant Medicare levy surcharge threshold and who does not have complying health insurance covering themself and all of that person's dependants is liable for the Medicare levy surcharge.

1.10 A 'complying health insurance policy' for the purposes of the Medicare levy surcharge is one that covers hospital treatment and for which any excess payable in respect of benefits under the policy is no more than $500 in any 12-month period when one person is insured ($1,000 in any 12-month period for any other policy).

1.11 In 2011-12, the Medicare levy surcharge threshold for individuals will be $80,000 and for couples/families will be $160,000 (increased by $1,500 for each dependent child after the first).

1.12 In future years, these thresholds will be indexed to average weekly ordinary time earnings and increased in $1,000 increments (rounding down).

Summary of new law

1.13 These Bills reduce the amount of private health insurance rebate an eligible person with a complying private health insurance policy is entitled to when that person has income for surcharge purposes above the relevant Medicare levy surcharge threshold. For example, in the 2011-12 financial year, in relation to premiums and amounts in respect of premiums paid on and after 1 January 2012:

- singles with an annual income between $80,001 and $93,000 inclusive and couples/families with a combined annual income between $160,001 and $186,000 inclusive will receive a 20 per cent private health insurance rebate if they are aged up to 65 years (25 per cent if they are 65 years or over, and 30 per cent if they are aged 70 years or over);

- singles with an annual income between $93,001 and $124,000 inclusive and couples/families with a combined annual income between $186,001 and $248,000 inclusive will receive a 10 per cent private health insurance rebate if they are aged up to 65 years (15 per cent if they are 65 years or over, and 20 per cent if they are aged 70 years or over); and

- singles with an annual income of $124,001 and above and couples/families with a combined annual income of $248,001 and above will not receive any private health insurance rebate, regardless of age.

1.14 For families with more than one dependent child, the relevant threshold is increased by $1,500 for each child after the first.

1.15 In future years, the singles thresholds will be indexed to average weekly ordinary time earnings and increased in $1,000 increments (rounding down). The couples/family thresholds will be double the relevant singles thresholds. The reduced rebate percentages will apply for the whole of the income year.

1.16 These Bills also increase the rate of Medicare levy surcharge that certain taxpayers are liable for when they have income for surcharge purposes above specified thresholds and do not have complying private health insurance. For example, in the 2011-12 financial year, with application for that part of the year from 1 January 2012:

- singles with an annual income between $93,001 and $124,000 inclusive and couples/families with a combined annual income between $186,001 and $248,000 inclusive will be liable for a 1.25 per cent Medicare levy surcharge; and

- singles with an annual income of $124,001 and above and couples/families with a combined annual income of $248,001 and above will be liable for a 1.5 per cent Medicare levy surcharge.

1.17 For families with more than one dependent child, the relevant threshold is increased by $1,500 for each child after the first.

1.18 In future years, the singles thresholds will be indexed to average weekly ordinary time earnings and increased in $1,000 increments (rounding down). The couples/family thresholds will be double the relevant singles thresholds. The increases in surcharge will apply for the whole income year.

Comparison of key features of new law and current law

Table 1.1: Private health insurance rebate

New law	***Current law***
In 2011-12, singles who hold a complying private health insurance policy and who are eligible for Medicare with income for surcharge purposes between $80,001 and $93,000 inclusive, will be eligible for a 20 per cent private health insurance rebate in relation to premiums and amounts in respect of premiums paid on and after 1 January 2012, if they are aged up to 65 years, 25 per cent if they are aged 65 to 70 years, and 30 per cent if they are aged 70 years or over. In 2011-12, singles who hold a complying private health insurance policy and who are eligible for Medicare with income for surcharge purposes between $93,001 and $124,000 inclusive, will be eligible for a 10 per cent private health insurance rebate in relation to premiums and amounts in respect of premiums paid on and after 1 January 2012, if they are aged up to 65 years, 15 per cent if they are aged 65 to 70 years, and 20 per cent if they are aged 70 years or over. In 2011-12, singles who hold a complying private health insurance policy and who are eligible for Medicare with income for surcharge purposes of $124,001 and above will not be eligible for any private health	Singles who hold a complying private health insurance policy and who are eligible for Medicare are entitled to a rebate of 30 per cent on the cost of their policy if they are aged up to 65 years, 35 per cent if they are aged 65 to 70 years, and 40 per cent if they are aged 70 years or above.

New law	***Current law***
insurance rebate in relation to premiums and amounts in respect of premiums paid on and after 1 January 2012. In future years, all of these thresholds will be indexed to average weekly ordinary time earnings and increased in $1,000 increments (rounding down). The reduced rebate percentages will apply to the whole income year.	
In 2011-12, a person who holds a complying private health insurance policy, is eligible for Medicare, is a member of a couple/family with no more than one child and has combined family income for surcharge purposes of between $160,001 and $186,000 inclusive, will be eligible for a 20 per cent private health insurance rebate in relation to premiums and amounts in respect of premiums paid on and after 1 January 2012, if the oldest person covered by the policy is aged up to 65 years, 25 per cent if the oldest person covered by the policy is aged 65 to 70 years, and 30 per cent if the oldest person covered by the policy is aged 70 years or over. In 2011-12, a person who holds a complying private health insurance policy, is eligible for Medicare, is a member of a couple/family with no more than one child and has combined family income for surcharge purposes of between $186,001 and $248,000 inclusive, will be eligible for a 10 per cent private health insurance rebate in relation to premiums and amounts in respect of premiums paid on and after 1 January 2012, if the oldest person covered by the policy is aged up to 65 years, 15 per cent if the oldest person covered by the policy is aged 65 to 70 years, and 20 per cent if the oldest person covered by the policy is aged 70 years or over.	A person who is a member of a couple/family covered by a complying private health insurance policy and who is eligible for Medicare is entitled to a rebate of 30 per cent on the cost of their policy if the oldest person covered by the policy is aged up to 65 years, 35 per cent if the oldest person is aged 65 to 70 years, and 40 per cent if the oldest person is aged 70 years or above.

New law	*Current law*
In 2011-12, a person who holds a complying private health insurance policy, is eligible for Medicare, is a member of a couple/family with no more than one child and has combined family income for surcharge purposes of $248,001 and above will not be eligible for any private health insurance rebate in relation to premiums and amounts in respect of premiums paid on and after 1 January 2012. If there is more than one dependent child, these thresholds are increased by $1,500 for each child after the first. In future years, all of the couple/family thresholds will be double the relevant singles thresholds. The reduced rebate amounts will apply to the whole income year.	

Table 1.2: Medicare levy surcharge

New law	*Current law*
In 2011-12, with application for that part of the year from 1 January 2012, single taxpayers with income for surcharge purposes between $93,001 and $124,000 inclusive and without appropriate private health insurance will be required to pay the Medicare levy surcharge at a rate of 1.25 per cent of taxable income and total reportable fringe benefits. In 2011-12, with application for that part of the year from 1 January 2012, single taxpayers with income for surcharge purposes of $124,001 and above and without appropriate private health insurance will be required to pay the Medicare levy surcharge at a rate of 1.5 per cent of taxable income and total reportable fringe benefits. The Medicare levy surcharge rate remains at 1 per cent of taxable income and total reportable fringe benefits for the period 1 July 2011 to 31 December 2011.	Single taxpayers with income for surcharge purposes above the Medicare levy surcharge singles threshold ($80,000 in 2011-12) and who do not have appropriate private health insurance are required to pay the Medicare levy surcharge at a rate of 1 per cent of taxable income and total reportable fringe benefits. In future years, the singles threshold will be indexed to average weekly ordinary time earnings and increased in $1,000 increments (rounding down).

New law	***Current law***
In future years, the increased surcharge rates will apply to the whole income year and the thresholds will be indexed to average weekly ordinary time earnings and increased in $1,000 increments (rounding down).	
In 2011-12, with application for that part of the year from 1 January 2012, each taxpayer who is a member of a family with no more than one child and combined family income for surcharge purposes between $186,001 and $248,000 inclusive will be required to pay the Medicare levy surcharge at a rate of 1.25 per cent of taxable income and total reportable fringe benefits if at least one member of the couple/family is not covered by appropriate private health insurance. In 2011-12, with application for that part of the year from 1 January 2012, each taxpayer who is a member of a family with no more than one dependent child and combined family income for surcharge purposes of $248,001 and above will be required to pay the Medicare levy surcharge at a rate of 1.5 per cent of taxable income and total reportable fringe benefits if at least one member of the couple/family is not covered by appropriate private health insurance. If there is more than one dependent child, these thresholds are increased by $1,500 for each child after the first. The Medicare levy surcharge rate remains at 1 per cent of taxable income and total reportable fringe benefits for the period 1 July 2011 to 31 December 2011. In future years, both of the couple/family thresholds will be double the relevant singles thresholds and the increased rates of surcharge will apply to taxable income and reportable fringe benefits for the whole income year.	Each taxpayer who is a member of a couple/family with no more than one dependent child and combined family income for surcharge purposes above the Medicare levy surcharge family threshold ($160,000 in 2011-12) is required to pay the Medicare levy surcharge at a rate of 1 per cent of taxable income and total reportable fringe benefits if at least one member of the couple/family is not covered by appropriate private health insurance. If there is more than one dependent child, the Medicare levy surcharge family threshold increases by $1,500 for each child after the first. In future years, the family thresholds will be double the singles thresholds.

Detailed explanation of new law

Fairer Private Health Insurance Incentives Bill 2011

Amendment to the Age Discrimination Act 2004

1.19 The *Age Discrimination Act 2007* is amended to update legislative references for which an exemption from that Act is provided to remove reference to the incentive amount provisions in the *Private Health Insurance Act 2007* and to substitute references to provisions in the *Private Health Insurance Act 2007* regarding the calculation of the private health insurance rebate. ***[Schedule 1, item 1]***

Amendment to the Income Tax Assessment Act 1936

1.20 Section 264BB of the *Income Tax Assessment Act 1936* lists information the Commissioner of Taxation (Commissioner) may require a private health insurer to provide in respect of a person covered at any time during the financial year by a complying health insurance policy issued by the insurer or, in certain circumstances, in respect of persons who paid premiums under such a policy.

1.21 Subsection 264BB(2) is amended to expand the information the Commissioner may require. This will include information about whether a premium has been reduced under the premiums reduction scheme (new section 23-1 of the *Private Health Insurance Act 2007*), and the name, address and date of birth of a participant in the premiums reduction scheme (as defined in that Act). ***[Schedule 1, item 2]***

Amendments to the Income Tax Assessment Act 1997

Subdivision 61-G — Private health insurance offset

1.22 Subdivision 61-G of the *Income Tax Assessment Act 1997* (ITAA 1997) allows a person to claim a tax offset for a premium, or an amount in respect of a premium, paid under a private health insurance policy instead of having the premium reduced under Division 23 of the *Private Health Insurance Act 2007* or receiving a payment under Division 26 of that Act.

1.23 Subsection 61-205(1) defines who is eligible to receive this private health insurance tax offset. The subsection is amended to restrict eligibility for the private health insurance tax offset to people who are private health insurance incentive beneficiaries (PHIIBs) of that policy. The definition of PHIIB is to be inserted into the *Private Health Insurance Act 2007* by the Fairer Private Health Insurance Incentives Bill 2011. ***[Schedule 1, item 3]***

1.24 There is an amendment to repeal current subsection 61-205(3). This subsection provided that a taxpayer could not claim the private health insurance tax offset if the premiums on their policy had been reduced under Division 23 of the *Private Health Insurance Act 2007* or the taxpayer had received a payment under Division 26 of that Act. ***[Schedule 1, item 4]***

1.25 There are also amendments to repeal current sections 61-210, 61-215 and 61-220 and substitute new sections 61-210 and 61-215. Former sections 61-210, 61-215 and 61-220 outlined how entitlements for the private health insurance tax offset were calculated. This calculation is now contained in the *Private Health Insurance Act 2007*. ***[Schedule 1, item 5]***

1.26 New subsection 61-210(1) provides that each PHIIB will be eligible to receive a tax offset for their share of the private health insurance incentive (PHII) benefit ('PHII benefit') in respect of the insurance policy premium or amount. New subsections 61-210(3) to (5) provide for the amount of offset to be reduced by the amount of any premium reduction under Division 23 of the *Private Health Insurance Act 2007* or the amount of any payment under Division 26 of that Act. ***[Schedule 1, item 5]***

1.27 Current subsection 61-210(2) is repealed so that no person is entitled to claim any offset amount under the incentive amount provisions. This subsection provided that, if before 1 January 1999, a person was registered, or eligible to be registered, under the *Private Health Insurance Incentives Act 1997*, that person was entitled to claim the greater of either the 30 per cent rebate (if that person was aged under 65 years) or the incentive amount that was provided under that Act (specified in former subsection 61-220(1)). ***[Schedule 1, item 5]***

1.28 New section 61-215 allows people that are married (within the meaning of the *A New Tax System (Medicare Levy Surcharge — Fringe Benefits) Act 1999*) on the last day of the income year to claim the private health insurance tax offset on behalf of their partner. Where one partner makes a choice to claim the offset on behalf of the other partner, which may only be made in the person's tax return at year end, the offset entitlement of their partner will be reduced to nil. ***[Schedule 1, item 5]***

1.29 The amount of offset that a taxpayer is eligible for reduces by 10 percentage points, 20 percentage points or is removed altogether if the person is assessed as a tier 1 earner, tier 2 earner or tier 3 earner respectively.

Example 1.1

Greg is a single 35 year old with a complying health insurance policy. In 2011-12, Greg's income for surcharge purposes is $95,000. From 1 January 2012, Greg will be assessed as a tier 2 earner and will receive a private health insurance tax offset of 10 per cent of the amount of premium paid on and after that date under his insurance policy. For premiums paid before that date, Greg will receive a private health insurance tax offset of 30 per cent of the amount of premium paid.

Example 1.2

Sarah is a single parent aged 45 with a complying health insurance policy that covers herself and her two children — Matt (aged 8) and Michelle (aged 10). In 2011-12, Sarah's income for surcharge purposes is $147,000. From 1 January 2012, Sarah will not be assessed as a tier earner as her income does not exceed any of the family tier thresholds. As such, for the whole 2011-12 income year, Sarah will receive a private health insurance tax offset of 30 per cent of the amount of premium paid under her insurance policy.

Example 1.3

Tony and Kate live together as a couple with Kate's children — Liz (aged 15) and Alan (aged 9). Tony is aged 40 years. Kate is aged 48 years. In 2011-12, Tony's income for surcharge purposes is $120,000 and Kate's is $50,000. Tony has an individual policy and Kate has a family policy with her two children. Their combined income for surcharge purposes is $170,000. From 1 January 2012, Tony and Kate will both be assessed as tier 1 earners and will each receive a private health insurance tax offset of 20 per cent of the amount of premium paid on and after that date on their respective insurance policies despite the fact Tony and Kate have separate policies. For premiums paid on and after 1 July 2011 to 31 December 2011, the private health insurance tax offset will be 30 per cent of premiums paid.

Example 1.4

Cid and Simon live together as a couple. Cid is aged 55 and Simon is aged 67. In 2011-12, Cid's income for surcharge purposes is $60,000 and Simon's is $150,000. Cid and Simon have a couple's complying health insurance policy. Their combined income for surcharge purposes is $210,000. Neither chooses to claim the offset on his partner's behalf. From 1 January 2012, Cid and Simon will both be assessed as tier 2 earners and will each receive a private health insurance tax offset of 15 per cent for his half of the total premiums paid on or after that date (because the oldest person covered by the policy — Simon — is aged over 65 years but less than 70 years). For premiums paid from 1 July 2011 to 31 December 2011, Cid and Simon will each receive a private health insurance tax offset of 35 per cent of the amount of premiums paid.

Example 1.5

Pauline and David live together as a couple. Pauline is aged 30 and David is aged 31. In 2011-12, Pauline's income for surcharge purposes is $70,000 and David's is $5,000. Pauline and David have a couple's complying health insurance policy. Their combined income for surcharge purposes is $75,000. From 1 January 2012, Pauline and David will not be assessed as tier earners. As such, for the whole 2011-12 income year, they are each entitled to receive a private health insurance tax offset of 30 per cent for their half of the total cost of the policy. Pauline chooses to claim the tax offset on David's behalf.

1.30 The Fairer Private Health Insurance Incentives Bill 2011 inserts definitions for a 'PHIIB', 'complying health insurance policy' and 'share of the PHII benefit' into subsection 995-1(1) which contains defined terms used in the income tax legislation. The meaning of these terms is derived from the *Private Health Insurance Act 2007*. ***[Schedule 1, items 6, 8 and 9]***

1.31 The definition of 'incentive amount' is repealed as it is no longer required as a benefit can no longer be claimed under the incentive amount provisions following other reforms in the Fairer Private Health Insurance Incentives Bill 2011. ***[Schedule 1, item 7]***

Amendments to the Private Health Insurance Act 2007

New Division 22 — PHIIB, PHII benefit and related concepts

1.32 New Division 22 is inserted into the *Private Health Insurance Act 2007,* comprising Subdivisions 22-A and 22-B. This Division defines concepts used in determining the percentage of private health insurance rebate that a person is entitled to under the premiums reduction, incentive payments and tax offset schemes.

1.33 The definition of ***PHIIB*** provides that, in general, all adults who are covered by a private health insurance policy will be PHIIBs for that policy. Where a policy covers a dependent child (or children) only, the parents of that child or children (as defined in the *Social Security Act 1991*) will be PHIIBs for the policy. ***[Schedule 1, item 10, subsections 22-5(1) to (3)]***

1.34 However, if a policy covers a dependent child or children only, and the parents are not married (within the meaning of the *A New Tax System (Medicare Levy Surcharge — Fringe Benefits) Act 1999*) at the end of the financial year, the payer of the premium in respect of that policy will be the only PHIIB for the policy provided that the payer is not a dependent child. ***[Schedule 1, item 10, subsection 22-5(4)]***

1.35 The definition of ***PHII benefit*** is, if there is only one PHIIB in respect of the premium or amount of a policy, the PHIIB's 'share of the PHII benefit' or, if there is more than one PHIIB, the sum of each of those PHIIB's 'share of the PHII benefit'. ***[Schedule 1, item 10, section 22-10]***

1.36 ***Share of the PHII benefit*** is defined in new section 22-15 for single PHIIBs and in new section 22-20 if there are multiple PHIIBs. To calculate a person's 'share of the PHII benefit', the total premium or amount for the policy is firstly divided by the number of PHIIBs on that policy if there are multiple PHIIBs in respect of the premium or amount on the policy. ***[Schedule 1, item 10, section 22-20]***

1.37 The share of the PHII benefit for each PHIIB is then 30 per cent of the PHIIB's premium or amount (increased by 5 per cent or 10 per cent if the oldest person covered by the policy is aged 65 to 69 years or 70 years and older respectively).

1.38 This amount is then reduced by 10 percentage points, 20 percentage points or removed altogether if the person is assessed as a tier 1 earner, tier 2 earner or tier 3 earner for the financial year respectively. New subsection 22-15(5) confirms the tiers apply to parents in relation to a dependent child-only policy, or the person who pays the premium or amount if the parents are not married at the end of the financial year.

1.39 The resulting amount is a PHIIB's share of the PHIII benefit and can be claimed through either the premiums reduction scheme, as an incentive payment or through the private health insurance tax offset.

1.40 Table 1.3 sets out which person or persons are entitled to receive the private health insurance rebate, how much each person is entitled to and which person or persons will be income tested.

Table 1.3

Persons covered	***Who is eligible to claim the rebate?***	***How much are they eligible for?***	***Who is income tested?***
Single adult	Single adult on the policy.	Whole rebate.	Single adult on the policy with respect to the single tier thresholds.
Single parent family	Single parent on the policy.	Whole rebate.	Single parent on the policy with respect to the family tier thresholds. The thresholds increase by $1,500 for each child after the first.
Couple/family	Both adults on the policy.	Each is entitled to one half of the rebate. One member of the couple may elect to receive the benefit on behalf of their spouse.	Both adults on the policy with respect to the family tier thresholds. The thresholds increase by $1,500 for each child after the first.
Multiple adults (not coupled)	All adults on the policy.	Each is entitled to a rebate based on their share of the policy. This is calculated by dividing the total cost of the policy by the number of adults covered.	Each adult is income tested separately with respect to the single tier thresholds.
Dependent child (children) only	(i) The parents of the children covered. (ii) If the parents of the children are not a couple, then the person who pays for the policy, provided the payer is not a dependent child.	(i) Each parent is entitled to a rebate based on their share of the policy. This is calculated by dividing the total cost of the policy by the number of parents. One parent may elect to receive the benefit on behalf of his or her spouse. (ii) The payer is entitled to the whole rebate.	(i) The parents with respect to the family tier thresholds. (ii) The payer, provided the payer is not a dependent child, income tested with respect to the family tier thresholds.

1.41 New section 22-25 enables a PHIIB receiving an increased private health insurance rebate, due to having a person aged 65 years or older covered under the same policy at the time the premium period started, to continue to receive the higher rebate if the person aged 65 years or older ceases to be covered by the policy. This provision was previously contained in the ITAA 1997. ***[Schedule 1, item 10, section 22-25]***

1.42 New Subdivision 22-B deals with the income test arrangements through the new private health insurance tiers. Section 22-30 describes the circumstances under which singles or families will be assessed as a tier 1 earner, tier 2 earner or tier 3 earner. ***[Schedule 1, item 10, section 22-30]***

1.43 Each member of a couple/family is assessed as a tier 1 earner if the combined income for surcharge purposes of them and their spouse exceeds the family tier 1 threshold and is less than or equal to the family tier 2 threshold. Similarly, they are a tier 2 earner if the combined income for surcharge purposes of them and their spouse exceeds the family tier 2 threshold and is less than or equal to the family tier 3 threshold. Finally, they are a tier 3 earner if the combined income for surcharge purposes of them and their spouse exceeds the family tier 3 threshold. ***[Schedule 1, item 10, subsection 22-30(1)]***

1.44 A person may be assessed under the family tier thresholds if the person is married (within the meaning of the *A New Tax System (Medicare Levy Surcharge — Fringe Benefits) Act 1999*) on the last day of the year; or if, on any day in the year, the person contributes in a substantial way to the maintenance of one or more dependent children (within the meaning of the *Private Health Insurance Act 2007*) who is either that person's 'child', as defined in the ITAA 1997 or that person's sibling who is dependent on them for economic support. ***[Schedule 1, item 10, subsection 22-30(1)]***

1.45 'Child', as defined in section 995-1 of the ITAA 1997, includes an adopted child, step-child, exnuptial child or a child of the person's spouse. Contributing to the maintenance of a child means providing substantial material support to that child on a regular or ongoing basis and does not require the child to reside with the person.

1.46 'Sibling' includes a brother, sister, half-brother, half-sister, adoptive brother, adoptive sister, step-brother, step-sister, foster-brother or foster-sister of the person. ***[Schedule 1, item 10, subparagraph 22-30(1)(b)(ii)]***

1.47 Siblings who are not dependent on a person for economic support are not included. To be dependent on a person for economic support, a sibling must look to that person for their care and financial wellbeing in a general sense, not merely on particular occasions. Merely looking after a sibling temporarily (for example, while the sibling's principal care-giver is away) is not sufficient to constitute dependency. Therefore the requisite dependency relationship will rarely occur in practice, and usually will only exist where there is no-one else (for example, a parent) who has general day-to-day care of the dependent sibling.

1.48 New section 22-30 ensures that where people are married (within the meaning of the *A New Tax System (Medicare Levy Surcharge — Fringe Benefits) Act 1999*) on the last day of the year, each person will be assessed as being on the same tier, with their combined income for surcharge purposes used to determine their eligibility for the private health insurance rebate, even where they have separate private health insurance policies.

1.49 'Marriage' in section 7 of the *A New Tax System (Medicare Levy Surcharge — Fringe Benefits) Act 1999* includes people who live together in a relationship as a couple on a genuinely domestic basis, even where they are not legally married.

1.50 Pursuant to new subsection 22-30(4), a single person is assessed as a tier 1 earner if that person's income for surcharge purposes exceeds the singles tier 1 threshold and is less than or equal to the singles tier 2 threshold. Similarly, that person is a tier 2 earner if that person's income for surcharge purposes exceeds the singles tier 2 threshold and is less than or equal to the singles tier 3 threshold. Finally, that person is a tier 3 earner if that person's income for surcharge purposes exceeds the singles tier 3 threshold.

1.51 A single person is a person who does not have dependants and is not married (within the meaning of the *A New Tax System (Medicare Levy Surcharge — Fringe Benefits) Act 1999*) on the last day of the year.

1.52 Sections 22-35 and 22-40 define the new single and family tier 1, tier 2 and tier 3 thresholds. ***[Schedule 1, item 10]***

1.53 With effect from 1 January 2012, for the 2011-12 income year, the single tier 1 threshold will be $80,000, the single tier 2 threshold will be $93,000 and the single tier 3 threshold will be $124,000. The family tier 1 threshold will be double the single tier 1 threshold, the family tier 2 threshold will be double the single tier 2 threshold and the family tier 3 threshold will be double the single tier 3 threshold.

1.54 In recognition of the costs associated with additional dependent children, the family tier thresholds of a person with two or more children that are dependants (within the meaning of the *A New Tax System (Medicare Levy Surcharge — Fringe Benefit) Act 1999)* increases by

$1,500 for each dependent child above the first. ***[Schedule 1, item 10, subsection 22-40(4)]***

1.55 Indexation provisions for the calculation of the singles tier thresholds in future years are contained in new section 22-45.

1.56 There are two formulae inserted into the indexation provisions in section 22-45, the first is for calculating the singles tier 1 threshold in future years; and the second is for calculating the singles tier 2 and tier 3 thresholds in future years.

1.57 The indexation provisions relating to the singles tier 1 threshold (previously the singles surcharge threshold) were formerly contained in the *Medicare Levy Act 1986* (MLA 1986) (having been inserted by the *Tax Laws Amendment (Medicare Levy Surcharge) Act (No. 2) 2008*). These provisions use a 2007 reference year for calculating the indexation factor — reflecting the threshold's application from the 2008-09 income year. ***[Schedule 1, item 10, subparagraph 22-45(2)(a)(i)]***

1.58 The new singles tier 2 and 3 thresholds will, in contrast use a 2009 reference year for calculating the indexation factor — reflecting that the thresholds were previously intended to commence in the 2010-11 income year, which was delayed to 2011-12. ***[Schedule 1, item 10, subparagraph 22-45(2)(a)(ii)]***

1.59 The 'indexation factors' for the singles tier 1 threshold and the singles tier 2 and tier 3 thresholds are contained in subsections 22-45(4) and (5) respectively. Indexation factors are to be rounded to three decimal places and the index number is an estimate of full-time average weekly ordinary time earnings. ***[Schedule 1, item 10, subsections 22-45(4) to (6)]***

1.60 In future years, the singles tier thresholds will be indexed annually to the estimate of full time adult average weekly ordinary time earnings unless its indexation factor is 1 or less. To avoid complex results from this indexation, the amount will be rounded down to the nearest $1,000. ***[Schedule 1, item 10, paragraph 22-45(2)(b)]***

1.61 Current Subdivision 23-A is repealed and a new Subdivision 23-A inserted. Former Subdivision 23-A dealt with the reduction of premiums for a participant in a premiums reduction scheme. Individuals will no longer be able to make a claim under former section 23-5. Provisions related to the reporting of information as part of the incentive amount scheme are also repealed. ***[Schedule 1, item 11]***

1.62 Former subsection 23-1(3) provided that, if before 1 January 1999, a person was registered, or eligible to be registered, under the *Private Health Insurance Incentives Act 1997* in respect of a policy that the person was covered by, then they were entitled to receive the greater of the amount calculated under former section 23-5 (incentive amount scheme) or the amount calculated under former subsection 23-1(22) (premiums reduction scheme).

1.63 Former section 23-25 imposed reporting obligations on such people. This section is abolished as a consequence of the repeal of the former special reduction provisions concerning those people. ***[Schedule 1, item 13]***

1.64 New section 23-1 provides that the amount of the premium reduction is the PHII benefit in respect of the premium. Amendments to paragraph 23-15(1)(b) limit who can receive the private health insurance rebate through the premiums reduction scheme to a PHIIB of a complying health insurance policy. ***[Schedule 1, items 11 and 12]***

1.65 Similarly, amendments to section 26-1 limit who can receive the private health insurance rebate through the incentive payments scheme to a PHIIB of a complying health insurance policy. ***[Schedule 1, item 14, subsections 26-1(1) and (2)]***

1.66 Where multiple people are covered by a single private health insurance policy, only one PHIIB is able to make a claim through the incentive payments scheme. In these cases, the person who makes the claim receives the payment on behalf of the other PHIIBs and is liable to account for that payment to the other PHIIBs. Each PHIIB is entitled to the total amount of the claim divided by the number of PHIIBs covered by the policy. ***[Schedule 1, item 14, subsections 26-1(2A) and (3)]***

1.67 The Fairer Private Health Insurance Incentives Bill 2011 includes a saving provision to ensure that, despite the repeal of former paragraph 26(1)(c), requirements specified in the *Private Health Insurance (Incentive) Rules* that were immediately in force before commencement, continue to have effect as if they had been made for the purposes of new paragraph 26-1(d). ***[Schedule 1, item 15]***

1.68 To reflect the insertion of new section 22-25, current section 26-5 is repealed. Current section 26-30, which imposed obligations on claimants under the incentive payments scheme to keep information up to date, is also repealed. ***[Schedule 1, items 16 and 17]***

New Subdivision 282-AA — Recovery of certain amounts by the Commissioner

1.69 Subdivision 282-A of the *Private Health Insurance Act 2007* sets out amounts paid under the premiums reduction scheme and incentive payments scheme that are recoverable as debts due to the Commonwealth.

1.70 The Fairer Private Health Insurance Incentives Bill 2011 inserts a new Subdivision 282-AA which allows for the recovery of certain amounts of monies by the Commissioner.

1.71 The Commissioner will be responsible for the recovery of private health insurance premium reductions made to a participant in the premiums reduction scheme and which exceed the amount allowable under section 23-1 of the *Private Health Insurance Act 2007*. The Commissioner will also be responsible for the recovery of payments made under Subdivision 26-B which exceed the amount to which the person was entitled under section 26-1 of that Act. ***[Schedule 1, item 19]***

1.72 Section 282-17, which prevents the double recovery of debts under the debt recovery provision in section 282-1 and the new recovery provisions in Subdivision 282-AA, is inserted. ***[Schedule 1, item 19, subsection 282-17(3)]***

1.73 In addition, to ensure private health insurers are not adversely affected by the new debt recovery provisions, amendments are made to section 282-1 to provide that an amount is not recoverable if the situation giving rise to the amount was not the fault of the private health insurer. ***[Schedule 1, item 18, subsection 282-1(1A)]***

1.74 Where the total amount received for a policy under the premiums reduction and/or incentive payments schemes, divided by the number of PHIIBs for that policy, exceeds a person's share of the PHII benefit, that person will be required to pay the excess to the Commonwealth. The Commissioner will give the person a notice, which may be contained in their notice of assessment, stating that the person is liable to pay the excess to the Commonwealth. This amount is then due and payable at the same time as the individual's income tax. ***[Schedule 1, item 19, subsections 282-18(3) to (6)]***

1.75 Where a policy provides cover to members of a couple, one partner can choose to repay his or her own and his or her partner's liability.

1.76 If a policy provides cover to members of a couple/family and the first partner does not choose to transfer to themselves the second partner's liability, the liability will automatically transfer if the second partner does not lodge an income tax return before the end of the financial year in which the first partner lodged his or her tax return. This ensures that overpayments can be recovered where only one partner lodges an income tax return. ***[Schedule 1, item 19, subsections 282-18(8) to (10)]***

1.77 A general interest charge will be payable on amounts levied under Subdivision 282-AA for the time during which amounts, which are due and payable, are not paid by the due date. ***[Schedule 1, item 19, section 282-19]***

Table 1.4

Steps for determining where an amount needs to be repaid, or a person is entitled to a private health insurance tax offset	***Key terms***
1. For a given financial year, calculate the amount of private health insurance rebate that has been claimed by each *PHIIB* on a policy through the premiums reduction and/or incentive payments schemes by dividing the total rebate claimed for that policy by the number of *PHIIB*s for that policy. 2. For each *PHIIB*, where the amount in (1) exceeds a *PHIIB*'s *share of the PHII benefit*, that *PHIIB* is required to pay the excess to the Commonwealth. 3. For each *PHIIB*, where the amount in (1) is less than a *PHIIB*'s *share of the PHII benefit*, that *PHIIB* is entitled to receive the difference through the private health insurance tax offset.	A *PHIIB* is either an adult covered by the policy, or in the case of dependent children only policies, is a parent of a child covered by the policy. Where there are multiple parents and they are not married (within the meaning of the *A New Tax System (Medicare Levy Surcharge — Fringe Benefits) Act 1999*), the payer of the premium in respect of a policy can be a PHIIB for that policy provided the payer is not a dependent child. To calculate the *share of the PHII benefit* for each person, the total cost of a policy will be firstly divided by the number of PHIIBs on that policy. The share of the PHII benefit will be 30 per cent of that amount (increased by 5 per cent or 10 per cent if the oldest person covered by the policy is aged 65 to 69 years or 70 years and older respectively), reduced with respect to the person's *income tier*. *Income tier*: Each person's eligibility for the private health insurance rebate will be reduced by 10 percentage points, 20 percentage points or removed altogether if they are assessed as a *tier 1*, *tier 2* or *tier 3 earner* respectively. The tier thresholds for couples/families will be double the relevant singles thresholds.

Division 323 — Disclosure of information

1.78 Section 323-1 of the *Private Health Insurance Act 2007* prohibits the disclosure of protected information unless the disclosure is an authorised disclosure. Section 323-5 lists the circumstances in which a person is authorised to disclose information.

1.79 The Fairer Private Health Insurance Incentives Bill 2011 provides that a disclosure of information for the purpose of enabling a person to perform functions under the *A New Tax System (Medicare Levy Surcharge — Fringe Benefits) Act 1999*, the MLA 1986, Subdivision 61-G of the ITAA 1997 or any other provision of the ITAA 1997, or of any other Act, to the extent that a provision relates to a provision in the above mentioned Acts, is an authorised disclosure. ***[Schedule 1, item 21, paragraph 323-5(c)]***

1.80 The penalty provision in section 282-25 is amended to make it an offence to use, make a record of, disclose or communicate any personal information that relates to the affairs of another person and was acquired under the new paragraph inserted into section 323-5. ***[Schedule 1, item 20]***

Schedule 1 — Dictionary

1.81 The Fairer Private Health Insurance Incentives Bill 2011 inserts cross-references to the definitions of ‘general interest charge’, ‘PHIIB’, ‘PHII benefit’, ‘share of the PHII benefit’, ‘tier 1 earner’, ‘tier 2 earner’, ‘tier 3 earner’, ‘singles tier 1 threshold’, ‘singles tier 2 threshold’, ‘singles tier 3 threshold’, ‘family tier 1 threshold’, ‘family tier 2 threshold’, ‘family tier 3 threshold’, ‘income for surcharge purposes’, ‘income year’, ‘indexation factor’, ‘index number’ and ‘quarter’ into the Dictionary to the *Private Health Insurance Act 2007*. ***[Schedule 1, items 22 to 25 and 27 to 40]***

1.82 The Fairer Private Health Insurance Incentives Bill 2011 repeals the definition of ‘incentive amount’. ***[Schedule 1, item 26]***

Amendments to the Taxation Administration Act 1953

1.83 Part IIA of the *Taxation Administration Act 1953* (TAA 1953) explains how to work out the general interest charge on an amount owed to the Commissioner.

1.84 Subsection 8AAB(2) states that a person is only liable to pay the charge on an amount if a provision states that the person is liable to pay the charge on that amount. New section 282-19 of the *Private Health Insurance Act 2007* sets out a circumstance in which a person will be liable to pay the general interest charge. A person is liable where that person has not repaid an amount owing due to an overpayment of that person's entitlement under the premiums reduction scheme or incentive payments scheme.

1.85 Subsection 8AAB(4) provides a list of the provisions of Acts under which a general interest charge liability can be made.

1.86 The Fairer Private Health Insurance Incentives Bill 2011 includes section 282-19 of the *Private Health Insurance Act 2007* into the list set out in subsection 8AAB(4). ***[Schedule 1, item 41]***

1.87 Subdivision 250-A of Schedule 1 to the TAA 1953 sets out the methods by which the Commissioner may collect and recover amounts of taxes and other liabilities. Subsection 250-10(2) provides an index of each tax-related liability that can be incurred under other Acts.

1.88 A liability for excess private health insurance premium reduction or refund under section 282-18 of the *Private Health Insurance Act 2007* is inserted into the index in subsection 250-10(2). ***[Schedule 1, item 42]***

Amendments to the Taxation (Interest on Overpayments and Early Payments) Act 1983

1.89 The Fairer Private Health Insurance Incentives Bill 2011 makes a number of amendments to the *Taxation (Interest on Overpayments and Early Payments) Act 1983* to allow the Commissioner to pay interest to a person in certain circumstances.

1.90 There is an amendment to the definition of a 'decision to which this Act applies' in section 3 to include a decision of the Commissioner to give a notice under subsection 282-18(4) of the *Private Health Insurance Act 2007*. ***[Schedule 1, item 43]***

1.91 The table in section 3C is amended to include as a relevant tax liability, a liability arising under Subdivision 282-AA of the *Private Health Insurance Act 2007*. ***[Schedule 1, item 44]***

1.92 This amendment to section 3C, together with an amendment to section 9, allow the Commissioner to pay interest under Part III of the *Taxation (Interest on Overpayments and Early Payments) Act 1983* where the liability is overpaid as a result of a successful objection or amendment to the liability under Subdivision 282-AA of the *Private Health Insurance Act 2007*. ***[Schedule 1, items 44 and 47]***

1.93 To ensure a liability under Subdivision 282-AA, which is included on an income tax notice of assessment, is taken into account in calculating interest under Part IIB, amendments are made to section 8E of the *Taxation (Interest on Overpayments and Early Payments) Act 1983*. That section provides for interest on overpayments resulting from assessments. ***[Schedule 1, items 45 and 46]***

Fairer Private Health Insurance Incentives (Medicare Levy Surcharge) Bill 2011

Amendments to the Medicare Levy Act 1986

1.94 The MLA 1986 determines whether a person is liable to pay the Medicare levy surcharge in respect of their or their spouse's, taxable income. The *A New Tax System (Medicare Levy Surcharge — Fringe Benefits) Act 1999* determines whether a person is liable to pay the Medicare levy surcharge in respect of the person, or their spouse's, reportable fringe benefits.

1.95 A person is liable to pay the Medicare levy surcharge where that person's income for surcharge purposes exceeds prescribed income thresholds.

1.96 The Fairer Private Health Insurance Incentives (Medicare Levy Surcharge) Bill 2011 inserts definitions for 'singles tier 1 threshold' and 'family tier 1 threshold', and 'tier 2 earner' and 'tier 3 earner'. ***[Schedule 1, items 1 and 3 to 5, subsection 3(1)]***

1.97 'Family tier 1 threshold' and 'single tier 1 threshold' have the same meaning as in the *Private Health Insurance Act 2007*.

1.98 The meanings of 'tier 2 earner' and 'tier 3 earner' are those set out in the *Private Health Insurance Act 2007*, except as follows. In determining which tier a taxpayer is categorised as, the references to a 'dependent child' in the *Private Health Insurance Act 2007* should instead be read as references to a 'dependant' as defined by the *A New Tax System (Medicare Levy Surcharge — Fringe Benefits) Act 1999*, other than a dependant to whom the person is married (within the meaning of that Act). This is to reflect the slight differences in the definition of dependant in the *A New Tax System (Medicare Levy Surcharge — Fringe Benefits) Act 1999* relative to the *Private Health Insurance Act 2007*. ***[Schedule 1, item 6, section 3A]***

1.99 The definition of 'singles surcharge threshold' and 'family surcharge threshold', in current sections 3AA and 3A are repealed, together with the cross-reference to the definition of 'singles surcharge threshold' in subsection 3(1). ***[Schedule 1, items 2 and 6]***

1.100 The references to 'singles surcharge threshold' in sections 8B and 8E are replaced with references to 'singles tier 1 threshold' and 'beneficiary's singles tier 1 threshold' respectively. ***[Schedule 1, items 7 and 15]***

1.101 All references to 'family surcharge threshold' are replaced with 'family tier 1 threshold'. ***[Schedule 1, items 9, 11 to 13, 17 and 19 to 21].***

1.102 The Fairer Private Health Insurance Incentives (Medicare Levy Surcharge) Bill 2011 inserts new subsections giving effect to the increase in the Medicare levy surcharge for a person assessed as a tier 2 earner or tier 3 earner to 1.25 per cent and 1.5 per cent respectively. ***[Schedule 1, items 8, 10, 14, 16, 18 and 22]***

Example 1.6

Xu is single and does not have private health insurance. In 2011-12, Xu's income for surcharge purposes is $130,000. From 1 January 2012, Xu will be assessed as a tier 3 earner and will be liable for the Medicare levy surcharge at a rate of 1.5 per cent of his taxable income for the period from 1 January 2012 to 30 June 2012. Xu will be liable for a Medicare levy surcharge at a rate of 1 per cent of his taxable income for the period from 1 July 2011 to 31 December 2011.

Example 1.7

Johnny and Penny live together as a couple. Neither Johnny nor Penny has private health insurance. In 2011-12, Johnny's income for surcharge purposes is $70,000 and Penny's income is $95,000. Their combined income for surcharge purposes is $165,000. From 1 January 2012, Johnny and Penny will both be assessed as tier 1 earners and will be liable for the Medicare levy surcharge at a rate of 1 per cent of their taxable income for the period from 1 January 2012 to 30 June 2012. This is the same rate of surcharge payable by Johnny and Penny in respect of their taxable incomes for the period from 1 July 2011 to 31 December 2011.

Example 1.8

Eli and Kym live together as a couple with Kym's children — Courtney (aged 15) and Liam (aged 9). Eli does not have private health insurance, but Kym has a policy covering herself and her two children. In 2011-12, Eli's income for surcharge purposes is $100,000 and Kym's is $110,000. Their combined income for surcharge purposes is $210,000. From 1 January 2012, Eli and Kym will both be assessed as tier 2 earners and both will be liable for the Medicare levy surcharge at a rate of 1.25 per cent of their taxable income for the period from 1 January 2012 to 30 June 2012. Eli and Kym will be subject to the Medicare levy surcharge at a rate of 1 per cent of their respective taxable incomes for the period from 1 July 2011 to 31 December 2011.

Fairer Private Health Insurance Incentives (Medicare Levy Surcharge — Fringe Benefits) Bill 2011

Amendments to the A New Tax System (Medicare Levy Surcharge — Fringe Benefits) Act 1999

1.103 The *A New Tax System (Medicare Levy Surcharge — Fringe Benefits) Act 1999* determines whether a person is liable to pay the Medicare levy surcharge in respect of total reportable fringe benefits they or their spouse may have. The test for whether a person must pay the Medicare levy surcharge depends on whether the person's income for surcharge purposes exceeds prescribed income thresholds.

1.104 The Fairer Private Health Insurance Incentives (Medicare Levy Surcharge — Fringe Benefits) Bill 2011 inserts definitions for 'family tier 1 threshold', 'single tier 1 threshold', 'tier 2 earner' and 'tier 3 earner' into section 3 of the *A New Tax System (Medicare Levy Surcharge — Fringe Benefits) Act 1999*. ***[Schedule 1, items 2 and 4 to 6]***

1.105 'Family tier 1 threshold' and 'single tier 1 threshold' have the same meaning as in the *Private Health Insurance Act 2007*.

1.106 The meanings of tier 2 earner and tier 3 earner are those set out in the *Private Health Insurance Act 2007*, except as follows. Pursuant to new section 6, in determining whether a person is a tier 2 earner or a tier 3 earner, the references to a dependent child in the *Private Health Insurance Act 2007* should be read as references to a 'dependant' as defined by the *A New Tax System (Medicare Levy Surcharge — Fringe Benefits) Act 1999*, other than a dependant to whom the person is married (within the meaning of that Act). This is to reflect the slight differences in the definition of dependant in the *A New Tax System (Medicare Levy Surcharge — Fringe Benefits) Act 1999* relative to the *Private Health Insurance Act 2007*. ***[Schedule 1, item 6]***

1.107 The definitions of singles surcharge threshold and family surcharge threshold, contained in former sections 5A and 6 respectively, and references to those definitions in section 3, are repealed. ***[Schedule 1, items 1, 3 and 7]***

1.108 The reference to 'singles surcharge threshold' in section 12 is replaced with a reference to 'singles tier 1 threshold'. ***[Schedule 1, item 8]***

1.109 References to 'family surcharge threshold' are replaced with 'family tier 1 threshold'. ***[Schedule 1, items 10, 12, 14 and 15]***

1.110 There are also amendments to insert new subsections that give effect to the increase in the Medicare levy surcharge on total reportable fringe benefits for a person assessed as a tier 2 earner or tier 3 earner to 1.25 per cent and 1.5 per cent respectively. ***[Schedule 1, items 9, 11, 13 and 16]***

Application and transitional provisions

1.111 The amendments in Schedule 1 to the Fairer Private Health Insurance Incentives Bill 2011 apply in relation to premiums and amounts in respect of premiums paid on and after 1 January 2012. A choice under section 61-215 of the ITAA 1997 does not have effect for a premium or amount in respect of a premium, paid before 1 January 2012. ***[Schedule 1, item 48 of the Fairer Private Health Insurance Incentives Bill 2011]***

1.112 The amendments in Schedule 1 to the Fairer Private Health Insurance Incentives (Medicare Levy Surcharge) Bill 2011 and the Fairer Private Health Insurance Incentives (Medicare Levy Surcharge — Fringe Benefits) Bill 2011 apply to assessments for the 2011-12 year of income and later years of income. ***[Schedule 1, item 23 of the Fairer Private Health Insurance Incentives (Medicare Levy Surcharge) Bill 2011; Schedule 1, item 17 of the Fairer Private Health Insurance Incentives (Medicare Levy Surcharge — Fringe Benefits) Bill 2011]***

1.113 There are also transitional provisions in the Fairer Private Health Insurance Incentives (Medicare Levy Surcharge) Bill 2011 and in the Fairer Private Insurance Incentives (Medicare Levy Surcharge — Fringe Benefits) Bill 2011. These provisions will determine the amount of Medicare levy surcharge that is payable by a person in their income tax assessment for the 2011-12 year of income. ***[Schedule 1, item 24 of the Fairer Private Health Insurance Incentives (Medicare Levy Surcharge) Bill 2011; Schedule 1, item 18 of the Fairer Private Health Insurance Incentives (Medicare Levy Surcharge — Fringe Benefits) Bill 2011]***

1.114 In 2011-12, the amount of Medicare levy surcharge payable by an individual will be the sum of two parts.

1.115 The first part will be the amount of surcharge payable by the taxpayer in respect of the days in the period from 1 July 2011 to 31 December 2011 where the taxpayer did not have complying health insurance. For this six-month period, the Medicare levy surcharge is determined in accordance with the Medicare levy surcharge provisions in place prior to the amendments by the Fairer Private Health Insurance Incentives (Medicare Levy Surcharge) Bill 2011 and the Fairer Private Health Insurance Incentives (Medicare Levy Surcharge — Fringe Benefits) Bill 2011.

1.116 The second part will be the amount of surcharge payable by the taxpayer in respect of the days in the six-month period from 1 January 2012 to 30 June 2012 where the taxpayer did not have complying health insurance. For this six-month period, and subsequent income years, the Medicare levy surcharge is determined in accordance with the Medicare levy provisions as amended by the Fairer Private Health Insurance Incentives (Medicare Levy Surcharge) Bill 2011 and the Fairer Private Health Insurance Incentives (Medicare Levy Surcharge — Fringe Benefits) Bill 2011.

1.117 The amended Medicare levy surcharge provisions will have effect for the entire income year and later income years from 1 July 2012. The following examples are rounded to two decimal places:

Example 1.9

> Archie is single with no dependants for the whole of the 2011-2012 income year. His income for surcharge purposes is $140,000, comprising $125,000 taxable income and $15,000 reportable fringe benefits. From 1 December 2011 until 1 March 2012, Archie ceases his private patient hospital cover.
>
> For the period from 1 July 2011 to 31 December 2011, Archie is subject to the unamended Medicare levy surcharge provisions. Archie's income for surcharge purposes exceeds the singles surcharge threshold so he will be subject to a 1 per cent Medicare levy surcharge on both his taxable income and reportable fringe benefits for the 31 days of the period that he did not have private patient hospital cover.
>
> Taxable income: (1% × $125,000) × 31/366 = $105.87
> Reportable fringe benefits: (1% × $15,000) × 31/366 = $12.70
> Sum: $118.57
>
> For the period from 1 January 2012 to 30 June 2012, the amended Medicare levy surcharge provisions have effect and will apply for that period and subsequent income years. As Archie's income for surcharge purposes exceeds the singles tier 3 threshold, he will incur a Medicare levy surcharge of 1.5 per cent on his taxable income and reportable fringe benefits for the 60 days of the period that he did not have private patient hospital cover.
>
> Taxable income: (1.5% × $125,000) × 60/366 = $307.38
> Reportable fringe benefits: (1.5% × $15,000) × 60/366 = $36.89
> Sum: $344.27
>
> Archie's total Medicare levy surcharge for the 2011-12 income year is $118.57 + $344.27 = $462.84.

Example 1.10

Michael is single with no dependants for most of the 2011-12 income year. However, from 1 February 2012 to 30 June 2012, Michael is married to Jane and has four dependants. For the whole of the 2011-12 income year, Michael is not covered by an insurance policy that provides private patient hospital cover.

Michael's 2011-12 income for surcharge purposes is $100,000. Michael and Jane's respective income for surcharge purposes' combine to equal $150,000 for the 2011-12 income year. Neither Michael nor Jane has any reportable fringe benefits in the 2011-12 income year.

For the period from 1 July 2011 to 31 December 2011, Michael is subject to the unamended Medicare levy surcharge provisions. Michael's income for surcharge purposes exceeds the singles surcharge threshold so Michael will incur a 1 per cent Medicare levy surcharge on his $100,000 taxable income:

(1% × $100,000) × 184/366 = $502.73

For the period from 1 January 2012 to 30 June 2012, Michael is subject to the amended Medicare levy surcharge provisions that have effect for that period and later years of income. From 1 January 2012 to 29 February 2012, Michael is single with no dependants and his income for surcharge purposes means he is in the singles tier 2 threshold. Michael will be subject to a 1.25 per cent Medicare levy surcharge on his taxable income for the 60 days of the period that he is single and has no dependants:

(1.25% × $100,000) × 60/366 = $204.92

For the period from 1 February 2012 to 30 June 2012, when Michael is married to Jane with four dependants, his combined family income for surcharge purposes is below the family tier 1 threshold, which is increased by $1,500 for each dependent child above the first. Michael is not subject to any Medicare levy surcharge on his taxable income for this part of the 2011-12 income year.

Michael's total Medicare levy surcharge liability for the 2011-12 income year is $502.73 + $204.92 = $707.65.

Example 1.11

Luke and Lulu are married with no dependants for the whole of the 2011-12 income year and are not covered by private patient hospital cover. Their respective incomes for surcharge purposes combine to equal $190,000, including $5,000 of reportable fringe benefits.

For the period from 1 July 2011 to 31 December 2011, Luke and Lulu are subject to the unamended Medicare levy surcharge provisions. Their combined family income for surcharge purposes exceeds the family surcharge threshold so that they will each incur a Medicare levy surcharge of 1 per cent on their respective taxable incomes and reportable fringe benefits for the full 184 days of the period that they do not have private patient hospital cover.

For the period from 1 January 2012 to 30 June 2012, the amended Medicare levy surcharge provisions have effect and will apply for that period and later income years. Luke and Lulu's combined family income for surcharge purposes exceeds the family tier 2 threshold for 2011-12 so they will each incur a 1.25 per cent Medicare levy surcharge on their respective taxable incomes and reportable fringe benefits for the full 182 days of the period that they did not have private patient hospital cover.

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Fairer Private Health Insurance Incentives Bill 2011

Schedule 1: Amendments

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Item 43	1.90
Item 44	1.91
Items 44 and 47	1.92
Items 45 and 46	1.93
Item 48	1.111

Fairer Private Health Insurance Incentives (Medicare Levy Surcharge) Bill 2011

Schedule 1: Amendments

Bill reference	***Paragraph number***
Items 1 and 3 to 5, subsection 3(1)	1.96
Items 2 and 6	1.99
Item 6, section 3A	1.98
Items 7 and 15	1.100
Items 8, 10, 14, 16, 18 and 22	1.102
Items 9, 11 to 13, 17 and 19 to 21	1.101
Item 23	1.112
Item 24	1.113

Fairer Private Health Insurance Incentives (Medicare Levy Surcharge — Fringe Benefits) Bill 2011

Schedule 1: Amendments

Bill reference	***Paragraph number***
Items 1, 3 and 7	1.107
Items 2 and 4 to 6	1.104
Item 6	1.106
Item 8	1.108
Items 9, 11, 13 and 16	1.110
Items 10, 12, 14 and 15	1.109
Item 17	1.112
Item 18	1.113