1983

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

INCOME TAX ASSESSMENT AMENDMENT BILL (NO.4) 1983

INCOME TAX (RATES) AMENDMENT BILL (NO.2) 1983

INCOME TAX (INDIVIDUALS) BILL 1983

INCOME TAX (COMPANIES, CORPORATE UNIT TRUSTS AND SUPERANNUATION FUNDS) BILL 1983

INCOME TAX (BEARER DEBENTURES) AMENDMENT BILL 1983

EXPLANATORY MEMORANDUM

(Circulated by authority of the
Treasurer, The Hon P.J. Keating, MP)

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General Outline

Income Tax Assessment Amendment Bill (No. 4) 1983

This Bill will amend the income tax law to :

- facilitate the operation of the prescribed payments system by significantly reducing the paperwork burdens for many payers and payees and making it easier for persons affected to comply with the system's requirements (proposal announced on 5 October 1983 in response to the Report of the Senate Standing Committee on Finance and Government Operations);

- exempt from income tax the open employment incentive bonus payable to persons who, immediately following 6 months sheltered employment, complete 12 months full-time paid open employment on or after 1 October 1983 (Budget announcement);

- exempt from income tax only 50 per cent of the pay and allowances of part-time members of the Reserve Defence Forces in respect of service on or after 1 December 1983 and before 1 December 1984 and terminate the exemption thereafter (Budget announcement);

- ensure that remote area allowances to be paid to certain social security and repatriation pensioners and social security beneficiaries from 1 May 1984 are exempt from tax and provide that the income tax zone rebate otherwise allowable to such pensioners and beneficiaries be reduced by the amount of such allowances (Budget proposal);

- provide that from 1 March 1984 the additional benefit paid to unemployment, sickness and special beneficiaries caring for children and the supplementary allowance paid to sickness beneficiaries to assist with rent costs, both of which are paid under the Social Security Act 1947, will no longer be subject to tax (Budget proposal);

- ensure that the spouse carer's pension to be introduced from 1 December 1983, payable to a man providing care and attention for his severely handicapped pensioner wife, is taxed on a similar basis to that which applies to a pension paid to a woman by reason that she is the wife of a pensioner (Budget proposal);

- abolish, as from 1 July 1983, the rebate on up to $1,000 of dividend income of individual taxpayers (proposal announced in May Economic Statement);

- terminate, with effect from 23 August 1983, the deduction in respect of certain capital expenditure (predominantly the clearing of land) incurred in bringing land into use for primary production purposes (Budget announcement);

- terminate, with effect for losses incurred in 1983-84 or later income years, the deduction allowable in respect of a loss incurred in carrying on a business (i.e. gold mining) the income from which is exempt from tax (announced in May Economic Statement);

- terminate, with effect from 23 August 1983, the deduction available in respect of the cost of insulating a taxpayer's first home (Budget announcement);

- modify, with effect in relation to the 1983-84 income year and later years, the tax averaging system so that averaging will apply in all years instead of only in years for which a primary producer derives a tax reduction from averaging (announced in May Economic Statement);

- restore the position relating to rebates of tax in respect of dependants resident overseas that had existed before it was disturbed by the Domicile Act 1982, which came into operation on 1 July 1982 (proposal announced on 20 June 1983);

- increase the expenditure threshold from $1,590 to $2,000 for the purpose of the tax rebate on concessional expenditure (announced in May Economic Statement);

- exclude from liability to provisional tax trustees who, following legislative changes in the Autumn Sittings, are assessed in respect of income distributed to non-resident beneficiaries;

- make a technical change to the definition of "friendly society dispensary" as a consequence of amendments to the National Health Act; and

- provide the method of calculating provisional tax for the 1983-84 income year.

Income Tax (Rates) Amendment Bill (No.2) 1983

This Bill will amend the Income Tax (Rates) Act 1982:

- to reduce from $1,040 to $416 the income threshold at which special rates of tax apply to certain types of income derived by some unmarried minors; and

- as part of the changes to primary producer averaging arrangements, to bring about an upwards adjustment to the rates scales to reflect the application of tax rates based on average income in years in which the average income of a primary producer is greater than taxable income.

Income Tax (Individuals) Bill 1983

This Bill will:

- formally impose tax payable for the 1983-84 financial year by individuals, and by trustees generally, at the rates declared by the Income Tax (Rates) Act 1982, as proposed to be amended by the Income (Rates) Amendment Bill (No. 2) 1983; and

- formally impose provisional tax for the 1983-84 year of income.

Income Tax (Companies, Corporate Unit Trusts and Superannuation Funds) Bill 1983

This Bill will declare and impose the rates of tax payable for 1983-84 by companies, trustees of corporate unit trusts, trustees of superannuation funds and trustees in respect of trust income of a non-resident company beneficiary of trust estates.

Income Tax (Bearer Debentures) Amendment Bill 1983

This Bill will amend the Income Tax (Bearer Debentures) Act 1971 to increase from 55 per cent to 60 per cent the basic rate of tax payable under section 126 of the Assessment Act on interest paid by a company on bearer debentures where the names and addresses of the holders of the debentures are not furnished by the company to the Commissioner of Taxation.

Main Features

The main features of the Bills are as follows :

Income Tax Assessment Amendment Bill (No. 4) 1983

Friendly Society dispensaries
(Clause 3)

As a consequence of the proposed repeal of section 91 of the National Health Act 1953 the technical definition of "friendly society dispensary" in the income tax law is to be amended, witho"' substantive effect.

Exemption of open employment incentive bonus and payments to members of Reserve Defence Forces
(Clause 4)

The amendments proposed by clause 4 will extend and modify the provision of the income tax law which lists a range of specific types of income that are exempt from income tax.

The first of the amendments will give effect to the income tax aspect of the Budget announcement of an open employment incentive bonus payable under the Handicapped Persons Assistance Act 1974. Persons who, after completing at least 6 months sheltered employment, complete a further 12 months in full-time paid open employment on or after 1 October 1983 are eligible to receive a once only open employment incentive bonus of $500. The Bill will provide tax exemption for the bonus.

The clause will also modify the existing law, which exempts the whole of the pay and allowances of part-time members of the Reserve Defence Forces and the Emergency Reserve Defence Forces, to give effect to the Budget announcement that only half of payments on or after 1 December 1983 and before 1 December 1984 is to remain exempt. After that the exemption will cease altogether. The proposed amendment will also apply to the exemption of the gratuity paid to members of the Emergency Reserve Defence Forces by reason of a calling out for continuous service.

Exemption of payments of additional benefit for children and supplementary allowance; Spouse carer's pension (Clause 5)

This clause amends in two respects the section of the Income Tax Assessment Act that governs the taxing of pensions, allowances and benefits under the Social Security, Repatriation and other Acts.

First, it gives effect to the Budget announcement that the additional benefit for children paid to unemployment, sickness and special beneficiaries and the supplementary allowance paid to sickness beneficiaries to assist with rent costs, both of which are paid under the Social Security Act 1947, will not be subject to tax from 1 March 1984. Under the existing law, additional benefits for children and the supplementary allowance payable to beneficiaries are assessable income but similar payments to pensioners are specifically exempt from tax. The Bill proposes that any instalments of these payments to unemployment, sickness and special beneficiaries that fall due on or after 1 March 1984 will be exempt from tax.

Secondly, as announced in the Budget, from 1 December 1983 a spouse carer's pension is to be payable under the Social Security Act 1947 and the Repatriation Act 1920 to a man who is not entitled to other pensions or allowances and who is providing constant care and attention to his severely handicapped age, invalid or service pensioner wife. The pension will be payable on the same general conditions as a wife's pension is payable to the wife of a man who is an age, invalid or service pensioner. By this clause the spouse carer's pension will be treated for taxation purposes on a similar basis to that which applies to such a wife's pension. When paid under the Social Security Act it will be exempt when paid to a man who is less than 65 years of age and whose wife is less than 60, and taxed if he is 65 years or older or if his wife is 60 years or older. When paid under the Repatriation Act these rules will apply only where the wife's service pension is paid because she is permanently unemployable. In other service pension cases the spouse carer's pension will be taxable irrespective of age.

Tax liability in respect of remote area allowances (Clauses 5 and 9)

The Bill will give effect to the income tax aspects of the proposal announced in the Budget that a non-taxable remote area allowance is to be introduced from May 1984 for persons living in Income Tax Zone A (including Special Zone A) who are income tested pensioners (other than pensioners aged 70 or over receiving the special rate of age or service pension payable from 1 November 1983), beneficiaries, blind pensioners or sheltered employment and rehabilitation allowees. To ensure that the sum of the non-taxable remote area allowance and the income tax zone rebate received by a person in an income year does not exceed the amount which that person would receive if entitled to only one of the benefits, the allowance is to be deductible from the maximum claimable value of any income tax zone rebate to which the recipient would otherwise be entitled. The amendment to the Income Tax Assessment Act proposed by paragraphs (1)(a) and (b) of clause 5 will provide tax exemption for remote area allowances paid to repatriation pensioners - such allowances paid to social security pensioners and beneficiaries will be exempt under existing provisions of that Act. The amendment proposed by clause 9 provides for the reduction of any zone rebate otherwise allowable to a taxpayer by the amount of remote area allowance received by that taxpayer.

Rebate on certain dividends
(Clause 6)

The amendment proposed by this clause will give effect to the proposal announced in the May Economic Statement to abolish the rebate allowable at the standard rate of tax on up to $1,000 of certain dividends included in the taxable income of Australian resident individual taxpayers.

The rebate was introduced from 1 July 1982, and is, by the amendment proposed by this clause, to be abolished as from 1 July 1983.

Deduction of certain expenditure on land used for primary production
(Clause 7)

By this clause, the Bill proposes to terminate the deduction, in equal instalments over 10 years, for capital costs incurred by a primary producer in respect of land used in a business of primary production. Examples of some of the expenditures within the scope of the concession are the initial clearing of land by the destruction and removal of timber, scrub or undergrowth indigenous to the land, the initial preparation of the land for agriculture, the ploughing and grassing of land to be used for grazing purposes and the draining of swamp land.

The termination of the deduction is to apply in respect of expenditure incurred after 23 August 1983 unless it is incurred in connection with a contract entered into on or before that date. Expenditure contracted for on or before 23 August 1983 will continue to be deductible in equal instalments over 10 years.

Loss incurred in an exempt business
(Clause 8)

This clause will give effect to the proposal, announced on 19 May 1983, to terminate the deduction available in respect of a loss incurred in carrying on a business, such as gold mining, from which exempt income is derived.

The deduction will cease to be allowable for such a loss incurred in the 1983-84 year of income or any subsequent year of income.

Deduction for expenditure in respect of home insulation
(Clause 10)

This clause will give effect to the Budget proposal to terminate the concessional deduction in respect of amounts paid by a person for the thermal insulation of his or her first home.

Deductions will cease to be available in respect of payments made after 23 August 1983 for costs associated with the thermal insulation of a taxpayer's dwelling, unless those payments are made in pursuance of a contract entered into on or before that date.

Tax averaging for primary producers
(Clauses 11, 12 and 13)

The Bill and related "Rates Act" measures will give effect to changes to the income tax averaging system for primary producers foreshadowed in the Economic Statement of 19 May 1983. The changes will mean, in effect, that commencing with the 1983-84 income year a taxpayer will pay tax on taxable income from primary production at a rate of tax obtained by applying ordinary tax rates to average income (generally the average of the taxable incomes of the current and the 4 preceding years), regardless of whether the application of the averaging system in a particular year will be of benefit to the taxpayer in that year.

Since the 1977-78 income year the primary producer averaging provisions have applied only where the average income of a year was less than the taxable income. In other words, the averaging provisions only applied where this would reduce the tax payable. This result is achieved by means of a rebate of tax equal to the amount by which tax payable at ordinary rates on primary production taxable income exceeds tax payable at the average rate on that income. In the converse situation where average income exceeded the taxable income for the year and, consequently, the average tax rate was greater than ordinary tax rates, the primary producer has paid tax at ordinary rates.

Under the averaging system proposed by the Bill, a primary producer (unless he or she permanently opts out of tax averaging) will be required to pay tax on taxable income from primary production at the average rate in all years, including years in which the average rate is greater than the ordinary rate. The averaging rebate will continue to apply in years when a taxpayer benefits from averaging. For other years there will be an averaging adjustment which will take the form of a complementary amount of tax. The effect of the new system will be broadly the same as that which operated prior to the 1977-78 income year, subject to its being confined to primary production income.

The Bill also proposes that a taxpayer may elect to permanently withdraw from the averaging system, in which case tax will be payable at ordinary tax rates for the year in respect of which the election is made and for all subsequent years.

Rebates for dependants
(Clause 14)

This clause will amend the income tax law relating to rebates of tax in respect of dependants, to restore the position that had existed before it was disturbed by the Domicile Act 1982, which came into operation on 1 July 1982.

The concessional rebates for dependants are available only to a resident taxpayer, and only where the dependant concerned is also a resident of Australia. The higher level of the spouse rebate where there are dependent children - as well as the zone rebates, to the extent that they relate to dependent children - apply only where the children are also resident. Prior to the 1982 change in the law of domicile, where a migrant preceded his wife and children to Australia and arrangements had been made for them to follow as soon as circumstances permitted, the wife and children were accepted as residents of Australia for up to 5 years after the migrant's arrival, on the basis that they had a legal domicile in Australia and no permanent place of abode outside Australia.

The Domicile Act 1982 abolished the rule that a wife's domicile is necessarily that of her husband, and also reduced to 18 years the age of capacity to have an independent domicile. As a result, a wife waiting to join her husband in Australia and their dependent children aged 18 years and over could no longer be regarded as residents of Australia for taxation purposes prior to their arrival in Australia. In these circumstances, if the income tax law were to remain unchanged, the migrant husband would not be entitled to a spouse or other relevant rebate.

The technical amendment proposed by this Bill will apply from 1 July 1982 and ensure that a migrant will continue to be eligible for relevant rebates of tax for a period of up to 5 years after his arrival in Australia, on the basis that his spouse and dependent children are also residents of Australia, provided that arrangements have been made for them to migrate to Australia as soon as possible. The amendment is also framed so that the entitlement to rebates will be the same whether the spouse who first comes to Australia is the husband or the wife.

General concessional rebates
(Clause 15)

This clause will increase, with effect from the 1983-84 income year, the threshold amount of eligible expenditure for the purposes of the general concessional rebate. By the amendment proposed by this clause a rebate of tax of 30 per cent of the excess over $2,000 of a taxpayer's total concessional expenditure will be available in assessments for the 1983-84 and later years of income. The existing threshold expenditure level is $1,590.

Liability to provisional tax
(Clause 16)

The amendment proposed by clause 16 will exclude from liability to provisional tax trustees who, following legislative changes in the Autumn Sittings, are liable to be assessed and to pay tax in respect of income distributed to non-resident beneficiaries.

Provisions introduced in the Income Tax Assessment Amendment Act 1983 to facilitate the collection of tax from non-resident beneficiaries made trustees primarily liable for tax, including provisional tax, in respect of trust income distributed to non-resident beneficiaries after 18 May 1983. Representations have been received from many trustees so affected to the effect that, because other existing provisions of the Income Tax Assessment Act authorize and require a trustee to retain, in effect, so much of any distribution to a non-resident beneficiary as is sufficient to pay the tax on that income, it is not appropriate and would create difficulties for the trustees, if they were to be also subject to payment of provisional tax. To meet these representations while at the same time preserving in effect the application of P.A.Y.E. principles to these distributions, trustees will be required to promptly remit to the Commissioner of Taxation amounts deducted from distributions to non-resident beneficiaries when the distributions are made.

Collection of tax at source from certain payments for work or services
(Clauses 17-24)

The Bill will give effect to certain changed arrangements that were announced on 5 October 1983 in the light of recommendations contained in a report tabled in the Senate by the Standing Committee on Finance and Government Operations which examined the administration and operation of the prescribed payments system.

Basically, the changes are designed to refine certain of the administrative aspects of the prescribed payments system, reducing considerably the paperwork burdens on some taxpayers and generally facilitating taxpayer compliance with its requirements.

Under amendments proposed by the Bill the following arrangements will have effect, generally from the date of Royal Assent to the Bill -

- prescribed payments received by payees who hold deduction exemption certificates on the grounds of good tax compliance will be taken outside the prescribed payments system provided that a reporting exemption declaration is lodged by such payees with each eligible paying authority on an annual basis or as otherwise approved by the Commissioner of Taxation (clause 23);

- payees are to be able to lodge a deduction form at any time during the month (in lieu of a period of 7 days) preceding the month during which a prescribed payment is to be made to that payee (clause 20);

- where a payee has furnished a deduction form in respect of a month and payment is deferred, the deduction form will remain valid until the month when payment is actually made. If part of the payment only is made, the eligible paying authority is to be required to prepare deduction forms in relation to subsequent instalments of that payment (clauses 19 and 21);

- payees need prepare and furnish to an eligible paying authority only one (annual) deduction form where the eligible paying authority undertakes to prepare deduction forms on the payee's behalf (clauses 19 and 21).

In addition to the above changes, the Bill contains a minor amendment to the provisional tax self-assessment provisions which simplifies the calculations which a taxpayer who wishes to vary a provisional tax liability on account of prescribed payment income is required to make (clause 17).

Provisional tax for 1983-84
(Clause 25)

Provisional tax for the 1983-84 year of income is to be calculated, basically, by applying 1983-84 rates of tax to 1982-83 taxable incomes, as increased by 11 per cent. Apart from the exceptions outlined below, to the extent that rebates and credits are allowed in 1982-83 income tax assessments, they generally will be taken into account in calculating the 1983-84 provisional tax.

Where a taxpayer with dependent children has been allowed in his or her 1982-83 assessment a spouse, daughter-housekeeper or housekeeper rebate, or a sole parent rebate, the relevant rebates (including zone rebates where appropriate) will be increased for provisional tax purposes to reflect the full year effect in 1983-84 of the increase in rebates allowed for part of 1982-83. The excess concessional expenditure rebate and the pensioner rebate (if applicable) will be recalculated for provisional tax purposes based on the 1983-84 amounts. The dividend rebate, the health insurance rebate and the rebate for housing loan interest in excess of 10% per annum which were all abolished from 1 July 1983 will not be allowed in the calculation.

An amount for provisional medicare levy will be added to the provisional tax otherwise payable, where it appears from the information contained in the taxpayer's 1982-83 return of income that he or she will be liable to that levy in 1983-84.

Income Tax (Rates) Amendment Bill (No. 2) 1983

This Bill will amend the Income Tax (Rates) Act 1982, which declares the rates of tax payable for 1983-84 and subsequent years in respect of the income of individuals and trustees generally, to give effect to the May Economic Statement proposal to reduce, from $1,040 to $416, the income threshold at which special rates of tax apply to certain types of income derived by some unmarried minors. The reduction is to apply from the beginning of the 1983-84 income year. Associated changes to shading-in provisions for incomes marginally exceeding the threshold are provided for.

The Bill also proposes amendments to section 13 of the Income Tax (Rates) Act 1982 that are consequential upon the changes to the primary producer averaging system proposed by the Income Tax Assessment Amendment Bill (No. 4) 1983. By the amendments, a rate of complementary tax is declared for taxable income from primary production in a case where the tax payable by a taxpayer in an income year calculated on the basis of an average rate is greater than the tax that would be payable if ordinary tax rates were applicable. The rate of tax so declared will be applied in calculating the averaging tax adjustment that is to be applicable in such cases.

Income Tax (Individuals) Bill 1983

The rates of tax payable for 1983-84 and, until the Parliament otherwise provides, for 1984-85 by individuals and trustees generally, as declared by the Income Tax (Rates) Act 1982 as proposed to be amended by the accompanying Income Tax (Rates) Amendment Bill (No. 2) 1983, will be formally imposed by this Bill. It will also formally impose provisional tax for 1983-84.

Income Tax (Companies, Corporate Unit Trusts and Superannuation Funds) Bill 1983

The rates of tax payable for 1983-84 by companies, by trustees of corporate unit trusts and of superannuation funds and by trustees in respect of trust income of a non-resident company beneficiary will be declared and imposed by this Bill.

Apart from the increase in the rate of tax for friendly society dispensaries - from 41% to the general company tax rate of 46% as a consequence of changes announced in the 1981-82 Budget in the basis of assessment of such bodies - the rates are the same as those for 1982-83.

Income Tax (Bearer Debentures) Amendment Bill

This Bill will amend the Income Tax (Bearer Debentures) Act 1971, which imposes tax on interest paid by a company on bearer debentures. It will increase the rate of tax payable under section 126 of the Assessment Act from 55 per cent to 60 per cent where the names and addresses of the holders of the debentures are not furnished by the company to the Commissioner of Taxation.

More detailed explanations of each of the provisions of the Bills are contained in the notes that follow.

INCOME TAX ASSESSMENT AMENDMENT BILL (No. 4) 1983

Clause 1 : Short title, etc.

By sub-clause (1) of this clause the amending Act is to be cited as the Income Tax Assessment Amendment Act (No. 4) 1983.

Sub-clause (2) facilitates references to the Income Tax Assessment Act 1936 which, in the Bill, is referred to as the "Principal Act".

Clause 2 : Commencement

But for this clause, the amending Act would, by reason of sub-section 5(1A) of the Acts Interpretation Act 1901, come into operation on the twenty-eighth day after the date of Assent. Subject to the operation of sub-clause (2), the amending Act is, by virtue of sub-clause (1), to come into operation on the date on which it receives the Royal Assent.

By sub-clause (2), the amendment proposed by clause 3, which is consequential on amendments to be effected by the Health Legislation Amendment Bill (No. 2) 1983, will come into operation on the date that Bill receives the Royal Assent.

Clause 3 : Interpretation

Clause 3 proposes to substitute a new definition of "friendly society dispensary" in sub-section 6(1) of the Principal Act. The existing definition of "friendly society dispensary" defines the term by reference to section 91 of the National Health Act 1953. Because of the proposed repeal of section 91 by the Health Legislation Amendment Bill (No. 2) 1983 it is necessary to redefine the term. The proposed new definition, which will operate to include within its meaning the same entities as are within the meaning of the definition it replaces, will define a "friendly society dispensary" as an approved pharmaceutical chemist within the meaning of Part VII of the National Health Act 1953, being a friendly society, or a friendly society body, within the meaning of that Part.

The definition of "friendly society dispensary" allows for easy reference to such a body in other areas of the Principal Act. Friendly society dispensaries are taxed in accordance with the general provisions of the income tax law. However, because they have the characteristics of a mutual organization, they are assessable in accordance with the principle which applies in the assessments of clubs and other non-profit organizations generally. Broadly speaking, this principle excludes from the tax base of such bodies, receipts from members, but leaves exposed to tax the net profit attributable to trading with non-members, as well as any investment income

Clause 4 : Exemptions

This clause proposes amendments to section 23 of the Principal Act under which certain types of income are exempt from income tax.

The first amendment will exempt from tax payments by way of an open employment incentive bonus. The bonus, which is a once only payment of $500, is payable under the Handicapped Persons Assistance Act 1974 following a recent amendment made by the Social Security Legislation Amendment Act 1983. A person may be eligible to receive the bonus where, after completing at least 6 months sheltered employment, he or she completes on or after 1 October 1983 a further 12 months in full-time paid open employment.

The other amendment will omit paragraphs 23(s) and 23(sa) of the Principal Act and thereby withdraw the tax exemption for pay, allowances and gratuities received by part-time members of the armed forces reserve. Paragraph 23(s) operates to exempt from tax the whole of the pay and allowances received (other than those for continuous full-time service) as a member of the Australian Naval Reserve, the Australian Army Reserve or the Australian Air Force Reserve. Paragraph (sa) exempts the whole of the pay and allowances received (other than those for continuous full-time service) as a member of the Naval Emergency Reserve Forces, the Regular Army Emergency Reserve or the Air Force Emergency Force and any gratuity paid to such a member by reason of a calling out for continuous service of, or as part of, such a Force. Clause 4 will have the effect of phasing out the withdrawal by exempting one-half of payments in respect of service or a calling out on or after 1 December 1983 and by withdrawing the exemptions altogether for payments in respect of service or a calling out on or after 1 December 1984.

<u>Paragraph (a)</u> of <u>sub-clause (1)</u> will insert a new paragraph (kba) in section 23 of the Principal Act to exempt payments made by way of the open employment incentive bonus payable under Part VIIIA of the Handicapped Persons Assistance Act 1974.

By <u>paragraph (b)</u> of <u>sub-clause (1)</u> paragraphs 23(s) and 23(sa) of the Principal Act, which exempt certain pay and allowances of Reserve Defence Force personnel, are omitted from the Principal Act.

By <u>sub-clause (2)</u>, new paragraph 23(kba), proposed to be inserted in the Principal Act by sub-clause (1), will apply to payments made on or after 1 October 1983.

By sub-clause (3), read in conjunction with the transitional measure in sub-clause (4), the withdrawal of the tax exemptions in paragraphs 23(s) and 23(sa) by sub-clause (1) will apply to tax in full pay and allowances in respect of service rendered by Reserve Defence Force personnel on or after 1 December 1984 and gratuities received by members of the Emergency Reserves by reason of a calling out for continuous service on or after that date.

Sub-clause (4) will phase out the tax exemption available for the pay, allowances and gratuities of Reserve and Emergency Reserve personnel by taxing one-half of the payments where the service is rendered or the call out occurs on or after 1 December 1983 and before 1 December 1984. For service etc., on or after 1 December 1984 sub-clause (3) will withdraw the exemption.

Clause 5 : Exemption of certain pensions

This clause proposes amendments to section 23AD of the Principal Act which sets out the circumstances in which pensions, benefits and allowances paid under social security, repatriation and other welfare legislation are subject to, or exempt from, tax. The amendments are needed to provide for the taxation treatment to be given to some new payments to be made under recent amendments to the Social Security Act 1947 and the Repatriation Act 1920 and to change the taxation treatment of certain allowances already paid under the Social Security Act.

The broad scheme of section 23AD is that sub-section (3) exempts from tax all pensions, allowances or benefits paid under the relevant legislation other than those included within the term "excepted payment", which is defined in sub-section (1). The term "excepted payment" includes certain payments which are assessable irrespective of the age of the recipient, and other payments, specified in the definition of "excepted pension" in sub-section (1), which are assessable only when the recipient is a prescribed person, i.e., a man or woman of age pension age or a woman under age pension age who is in receipt of a "wife's pension" as defined in sub-section (1), and is married to a man aged 65 or more.

Under the amendments to the Social Security Act and the Repatriation Act, a remote area allowance will be payable, with effect from 1 May 1984, to certain social security and repatriation pensioners and social security beeficiaries who live in remote areas - in practice, in Income Tax Zone A (including Special Zone A) - but who generally receive little or no benefit from the income tax zone rebates available to other persons residing in the same areas. To ensure that benefits received by way of remote area allowance are comparable to those available by way of income tax zone rebates, the allowance is to be exempt from tax.

The remote area allowance to be paid under the Social Security Act does not fall within the definition of "excepted payment" in section 23AD of the Principal Act and will therefore be exempt from tax under the existing provisions of that Act. However, the definition of "excepted payment" includes payments made in accordance with Division 5 of Part III of the Repatriation Act. As the remote area allowance to be paid to repatriation pensioners is to be paid under new section 98AA of that Division, such allowances would, but for the amendments proposed by paragraphs (a) and (b) of sub-clause 5(1), be subject to tax.

The amendment proposed by clause 9 of the Bill, which will reduce the income tax zone rebate to which a person would otherwise be entitled by the amount of any remote area allowance, is complementary to these amendments.

The second matter dealt with by clause 5 (in paragraph (c) of sub-clause (1)) is the proposal to exempt from tax, with effect from 1 March 1984, the <u>additional benefit for children</u> paid to unemployment, sickness and special beneficiaries with dependent children and the <u>supplementary allowance</u> paid to sickness beneficiaries to assist with rent, lodging or board and lodging costs. Both payments are made under the Social Security Act.

These payments are presently taxable as they come within the meaning of "excepted payment" (paragraph (c)) in sub-section 23AD(1). Similar payments made to pensioners, which would otherwise be taxed because they come within the meaning of "excepted payment" (paragraphs (a) or (b)), are exempt from tax as they come within the exclusions in paragraphs (d) and (e) of the definition.

Thirdly, under the recent amendments referred to earlier, it is proposed to pay a <u>spouse carer's pension</u> from 1 December 1983 to a man providing constant care and attention to his wife who is severely handicapped and who is an age, invalid or service pensioner. Basically, the pension will be given the same taxation treatment as is given a wife's pension paid to a woman by reason that she is the wife of a pensioner. Thus, when the spouse carer's pension is paid under the Social Security Act it will be exempt from tax except where the man is 65 years or older or his wife is 60 years or older, in which case it will be taxed. The same rules will apply to the pension paid to a man whose service pensioner wife is permanently unemployable (i.e., the wife is receiving the equivalent of an invalid pension by virtue of sub-section 85(2) of the Repatriation Act). In any other case the pension paid to the husband of a service pensioner will be taxable, irrespective of the ages of the husband and wife.

Where the spouse carer's pension is paid under the Social Security Act or under the Repatriation Act to a man whose wife is in receipt of a service pension because she is permanently unemployable, the pension will fall within the provisions of the definition of "excepted pension" in sub-section 23AD(1) and would consequently be exempt from tax under the existing law unless the man is 65 years or older. It is therefore necessary to amend the Principal Act to ensure that the pension is taxed when paid to a man whose wife is of pensionable age. This will be achieved by the amendments proposed by paragraphs (d) to (h) of sub-clause 5(1). Where the pension is paid under the Repatriation Act to a man whose wife is in receipt of a pension otherwise than because she is permanently unemployable, it will be taxed - being within sub-paragraph (b)(ii) of the existing definition of "excepted payment" - that is, a payment which is taxable in all circumstances.

As noted, it is also proposed to extend the availability of the <u>mother's/guardian's allowance</u> paid under the Social Security Act. These payments are already exempt from tax as a consequence of the exclusion from the definition of "excepted payment" made by paragraph (e) of the definition. Eligibility for the allowance will now be extended from 1 May 1984 to single unemployment, sickness and special beneficiaries with children and will be exempt from tax as a consequence of the amendment, discussed earlier, which is to be made by this clause to exempt from tax the additional benefit paid to beneficiaries in recognition of the costs of supporting children.

<u>Paragraphs (a) and (b) of sub-clause (1)</u> will amend the definition of "excepted payment" to effectively exempt from tax remote area allowances to be paid to repatriation pensioners.

<u>Paragraph (c) of sub-clause (1)</u> will amend the definition of "excepted payment" in sub-section 23AD(1) of the Principal Act to exempt from tax the additional benefit for children and the mother's/guardian's allowance paid to unemployment, sickness and special beneficiaries and the supplementary allowance paid to sickness beneficiaries.

Under the present definition of "excepted payment" payments made to pensioners, which are otherwise taxable because they are brought within the ambit of the definition by paragraphs (a) and (b) of the definition are exempt from tax if covered by the exclusions in paragraphs (d) and (e), which include supplementary payments to assist pensioners with rent, lodging or board and lodging costs and payments which the Commissioner of Taxation determines to be attributable to children in the custody care and control of the pensioner or spouse. By paragraph (c) of sub-clause (1) it is proposed to omit paragraphs (d) and (e) of the definition and insert new paragraphs (d), (e) and (f), which will operate to exempt the payments to which they refer.

New paragraph (d) of the definition of "excepted payment" will cover allowances for rent costs received not only by pensioners, as at present, but also by beneficiaries. Paragraph (e) will have the same coverage as the existing paragraph (e) and new paragraph (f) will apply to the additional benefits and mother's/guardian's allowances received by beneficiaries caring for or making contributions towards the maintenance of children.

Paragraph (d) of sub-clause (1) is a technical amendment consequent on the insertion by paragraph (e) of sub-clause (1) of a new paragraph in the definition of "prescribed person" in sub-section 23AD(1).

Paragraph (e) of sub-clause (1) proposes to amend the definition of "prescribed person" in sub-section 23AD(1) to insert a new paragraph (d) which will include within the definition a man to whom or in respect of whom a "spouse carer's pension" is payable. The term "prescribed person" is used for the purposes of the operation of the expression "excepted payment": pensions, allowances or benefits that are "excepted pensions" (see earlier) paid to such a person are taxable.

Paragraph (f) of sub-clause (1) proposes to insert a definition of "spouse carer's pension" in sub-section 23AD(1). "Spouse carer's pension" is defined to mean a pension payable under Division 6 of Part III of the Social Security Act 1947 or under section 85AA of the Repatriation Act 1920 to a man whose wife (as defined by the relevant legislation under which the pension is paid) has attained the age of 60 years. The purpose of the definition is to ensure that a man receiving such a pension, as defined, who has a wife 60 years or older, is taxed on the pension. Such a man will come within the definition of a "prescribed person" in sub-section 23AD(1) - refer to the amendment made by paragraph (e) of sub-clause 5(1). If a man in receipt of a spouse carer's pension is 65 years or older he will be a "prescribed person" because of the operation of existing paragraph (a) of the definition, and be taxable on the pension, notwithstanding that his wife is less than 60 years of age.

Paragraphs (g) and (h) of sub-clause (1) will amend sub-section 23AD(2) of the Principal Act to specify for the purposes of the Principal Act the time at which a man is deemed to have ceased to receive a "spouse carer's pension" (see paragraph (f) of sub-clause 5(1)) in circumstances where his wife dies and payment of the pension continues.

The amendment will ensure that payments of pension made to a man on or after the pension pay-day prior to the date of death of his wife or, if she died on a pension pay-day, on or after that pension pay-day, will not fall within the definition of "spouse carer's pension".

Accordingly, these payments of pension will not be taxable until the man attains the age of 65, unless the payments are made under the Repatriation Act otherwise than as a consequence of sub-section 85(2) of that Act, in which case they will continue to be taxed.

Sub-clause (2) provides that the amendments made by paragraph (c) of sub-clause (1) will operate in relation to instalments of pensions, allowances and benefits that fall due on or after 1 March 1984.

By sub-clause (3) the amendments made by paragraphs (d) to (h) (inclusive) of sub-clause (1) apply to payments made on or after 1 December 1983.

Clause 6 : Rebate in respect of certain dividends paid to residents

Sub-clause (1) proposes the amendment of the Principal Act to repeal section 46C, thereby terminating the rebate under that section on up to $1,000 of certain dividend income of individual taxpayers.

By sub-clause 2, the amendment proposed by sub-clause (1) is to apply to assessments for the year of income that commenced on 1 July 1983 and all subsequent years of income.

Clause 7 : Deduction of certain expenditure on land used for primary production

Section 75A of the Principal Act authorises a special deduction to primary producers by way of equal annual instalments over 10 years, in respect of certain expenditures of a capital nature designed to change the condition of land for use in a business of primary production. Examples of the expenditures within the scope of section 75A are the initial clearing of land by the destruction and removal of timber, scrub or undergrowth indigenous to the land, initial preparation of land for agriculture, ploughing and grassing of land to be used for grazing purposes and the draining of swamp land. This deduction is to be terminated.

Clause 7 of the Bill proposes the insertion in section 75A of a new sub-section - sub-section (6) - to the effect that a deduction is not available under section 75A in respect of expenditure incurred after 23 August 1983 unless it is incurred under a contract entered into on or before that date, being the date of the Budget announcement that the concession was to be terminated. Qualifying expenditure incurred or contracted for on or before 23 August 1983 will continue to be deductible in annual instalments over 10 years, until such time as the amount of the capital expenditure has been fully allowed as a deduction.

Clause 8 : Loss in deriving exempt income

This clause will terminate section 77 of the Principal Act which authorises a deduction, against income from other sources, of a loss incurred in carrying on a business (such as goldmining) the income, if any, from which would be exempt from tax. The section also provides for the recoupment of deductions that have been allowed for such losses where, within three income years following the year in which the loss was allowed as a deduction, profits are derived from the exempt business. Those profits are required to be brought to account as assessable income to the extent of deductions allowed within the three year period.

By clause 8, it is proposed to insert new sub-section (4) in section 77. The sub-section will apply so that a deduction will not be allowable in respect of a loss from the carrying on of an exempt business that is incurred in the 1983-84 year of income or any subsequent year of income. The recoupment provision of section 77, will continue to apply in respect of losses incurred in the 1982-83 and relevant previous income years.

Clause 9 : Rebates for residents of isolated areas

The amendments proposed by this clause are complementary to those proposed by paragraphs (1)(a) and (b) of clause 5 of this Bill.

As indicated in the notes on clause 5, the remote area allowances to be paid from May 1984 to certain social security and repatriation pensioners and social security beneficiaries living in Income Tax Zone A (including Special Zone A) are to be exempt from income tax. To ensure that the sum of the non-taxable remote area allowance and the income tax zone rebate received by a person in an income year does not exceed the amount which that person would receive if entitled to only one of the benefits, the allowance is to be deductible from the maximum claimable value of any income tax zone rebate to which the recipient would otherwise be entitled.

Paragraph (a) of clause 9 proposes an amendment to sub-section 79A(2) of the Principal Act - which sets out the amount of zone rebate allowable in particular circumstances - to make that sub-section subject to proposed new sub-section 79A(2A).

Paragraph (b) proposes the insertion of a new sub-section - sub-section (2A) - in section 79A, by which the amount of any zone rebate otherwise allowable to a taxpayer by virtue of sub-section 79A(2) will be reduced by the amount of any prescribed allowance paid to the taxpayer in respect of the year of income.

Paragraph (c) will insert in sub-section 79A(4) of the Principal Act a definition of "prescribed allowance" which is relevant to the new sub-section 79A(2A). The term will mean a remote area allowance paid under either the Social Security Act 1947 or the Repatriation Act 1920.

Clause 10 : Deduction for expenditure in respect of home insulation

Clause 10 will terminate the deduction that is authorised by sections 82KM and 82KS of the Principal Act for amounts paid by certain resident taxpayers in respect of expenditure on the thermal insulation of their home. Broadly stated, the deduction is allowed in respect of payments made by a taxpayer who is a resident of Australia for the cost of insulating his or her first home, where it is his or her sole or principal residence in Australia.

By this clause, it is proposed to insert a new sub-section - sub-section (7) - in section 82KN, the section which sets out the general conditions under which insulation costs are treated as deductible. New sub-section (7) will have the effect that the deduction will be available only in respect of relevant amounts paid on or before 23 August 1983 or paid after that date but under a contract entered into on or before that date.

Clauses 11, 12 and 13: Averaging of income for primary producers

Introductory note

The amendments proposed by these clauses will give effect to changes to the income tax averaging system for primary producers that were announced in the May Economic Statement.

Under the averaging system in its present form (Division 16 of Part III of the Principal Act) a primary producer is effectively called upon to pay tax on taxable income from primary production calculated at the lesser of average tax rates or ordinary tax rates. This has the effect that the system applies only if it will reduce the tax payable by the taxpayer. Tax at average rates is calculated by applying ordinary tax rates to the taxpayer's average income (generally the average of the taxable incomes of the current and 4 preceding years) and then determining the average rate of the tax on the average income.

By these amendments, commencing with the 1983-84 income year, a taxpayer will pay tax on taxable income from primary production at his or her average rate of tax, whether or not the application of the averaging system in a particular year will be of benefit to the taxpayer in that year. In recognition of this change in the provisions, an election will be available for a primary producer to permanently opt out of the averaging system and to thereafter pay tax calculated at ordinary rates. The averaging system as proposed by the Bill will have the same practical operation as the system that operated prior to the 1977-78 income year, but limited to primary production income.

There is to be no change in the rules by which the amount of income treated as primary production income for averaging purposes is determined. That is, income actually derived from primary production activities together with up to $5000 of income from non-primary production activities is subject to averaging as primary production income. Where the non-primary production income exceeds $5000 but is less than $10,000, the amount of that income that is subject to averaging is reduced from $5000 by the amount by which the non-primary production income exceeds $5000.

The method by which averaging benefits (in the form of a reduction in the tax payable) are conferred on taxpayers under the present system, i.e., by a rebate of tax, will be preserved in the new system and a complementary tax will be applied in years when the taxpayer's average income is greater than his or her taxable income, to bring the tax on primary production income up to the level of tax at average rates.

Clause 11 : Partner not having control and disposal of shares in partnership income

The amendments proposed by this clause to section 94 of the Principal Act are of a technical nature consequential upon the variation of the system of tax averaging for primary producers proposed by clause 12.

Section 94 operates in limited circumstances to identify income of which a partner in a partnership does not have real and effective control and disposal and on which further tax is imposed to bring the effective rate of tax on that income up to 50 cents in the dollar.

The amendments to sub-sections 94(10A), (10B), (12A) and (12B) of the Principal Act proposed by paragraphs (a), (b) (c), and (d) respectively of sub-clause (1) will not affect the substance of section 94, but will recognise that, under the proposed changes, Division 16 is not limited to the provision of rebates.

Consistent with the changes proposed by clause 12, sub-clause (2) of this clause makes the amendments apply for the 1983-84 income year and subsequent income years.

Clause 12 : Rebate of tax for, or complementary tax payable by, certain primary producers

Clause 12 contains the operative provisions for implementing the proposed system of tax averaging for primary producers.

Paragraph (a) of sub-clause 12(1) is a consequential amendment which ensures that the calculation of an averaging rebate under sub-section 156(4) is made without reference to the imposition of the new Medicare levy. Paragraph (c) is to the same effect but applies in application of the averaging provisions to a taxpayer in the capacity of trustee of a trust estate.

By paragraph (b), a new sub-section - sub-section (4A) - is to be inserted in section 156 of the Principal Act. Sub-section (4A) will operate as an obverse of the existing sub-section (4) which authorises a tax-averaging rebate. That is, sub-section (4A) will apply when the tax that would be payable on taxable income if average rates (referred to in the provisions as "notional rates") were applied exceeds the tax that would be payable at ordinary rates. It will require a complementary amount of tax to be paid by the taxpayer at the rate declared by the Parliament on the part of the taxable income of the taxpayer that is equal to the amount that is defined in sub-section 156(1) as the deemed taxable income from primary production. The rate of complementary tax is proposed to be declared in the Income Tax (Rates) Amendment Bill (No. 2) 1983 as the rate obtained by dividing the amount by which tax at average rates exceeds tax at ordinary rates by the taxable income.

Paragraph (d) of clause 12 proposes the insertion of a further new sub-section - sub-section (5A) - in section 156 which will be applicable in calculating the complementary tax payable by a trustee of a trust estate who is subject to tax averaging on the net income or a share of the net income of the trust estate that is derived from primary production. The basis of operation of sub-section (5A) will be equivalent to that proposed for non-trustee taxpayers in sub-section (4A).

Sub-clause (2) of clause 12 will bring the new averaging arrangements into operation for the 1983-84 income year and subsequent income years.

Clause 13 : Election that Division not apply

Sub-clause (1) of clause 13 proposes to repeal sections 158A and 158AA of the Principal Act and to substitute a new section 158A. Under the averaging provisions that operated before the 1978-79 income year, a taxpayer to whom the averaging provisions applied could elect under section 158A to withdraw permanently from the averaging system. In addition, section 158AA permitted a taxpayer who had previously withdrawn from the averaging system for 1965-66 or an earlier year a limited right to re-enter the system. Subsequent amendments to section 158AA also permitted taxpayers who had withdrawn from the averaging system before the 1977-78 income year to re-enter for that year. From the 1978-79 to 1982-83 income years inclusive averaging applied automatically where it was to the taxpayer's benefit and for this reason an election to withdraw made under section 158A for 1977-78 or an earlier year was inoperative for the 1978-79 and subsequent income years. Under the proposed arrangements to be applicable for the 1983-84 and later income years, as the system can operate to increase or decrease the tax payable, a taxpayer will once again be permitted to elect to permanently opt out of the averaging system and to pay tax thereafter at ordinary tax rates.

Sub-section (1) of new section 158A will permit a taxpayer to elect that averaging not be applied to income of a year of income specified in the election and of all subsequent years of income.

Sub-section (2) of new section 158A will require an election that is made under sub-section (1) to be in writing and be lodged with the Commissioner of Taxation on or before the date of lodgment of the return of income of the taxpayer for the year to which the election is to first apply, but the Commissioner will be empowered to grant an extension of time for making an election.

Sub-section 158A(3) will have the effect that in the relevant year of income and in every subsequent year a taxpayer who carries on a business of primary production and who has made an election under sub-section (1) will be taxed on the same basis as taxpayers to whom the averaging provisions do not apply. An election under new section 158A, once made, will be irrevocable.

Sub-clause (2) of clause 13 proposes that the effect of the repeal of sections 158A and 158AA and the insertion of the new section 158A will apply in assessments in respect of income of the year of income that commenced on 1 July 1983 and of all subsequent years of income.

Clause 14 : Rebates for dependants

This clause proposes the amendment of section 159J of the Principal Act - relating to rebates of tax in respect of dependants - to restore the position that had existed before it was disturbed by the Domicile Act 1982, which came into operation on 1 July 1982.

Concessional rebates of tax in respect of dependants are available only to taxpayers who are residents of Australia. In addition, the rebate for a dependent spouse is available only where the spouse is also a resident of Australia, and the higher level of that rebate where there are dependent children - as well as the zone rebates, to the extent that they relate to dependent children - apply only where the children are also resident.

Prior to the 1982 change in the law of domicile, where a migrant preceded his wife and children to Australia and arrangements had been made for them to follow as soon as circumstances permitted, the wife and children were accepted as residents of Australia for up to 5 years after the migrant's arrival, on the basis that they had a legal domicile in Australia and no permanent place of abode outside Australia.

The Domicile Act 1982 abolished the old rule that a wife's domicile is necessarily the same as that of her husband, so that such a wife waiting to join her husband in Australia can no longer be regarded as a resident of Australia. That Act also reduced to 18 years the age of capacity to have an independent domicile. Thus, a dependent wife and dependent children over 18 years of age of a migrant could not, as the law now stands, be regarded as residents of Australia for taxation purposes prior to their arrival in Australia.

To overcome this situation, <u>sub-clause (1)</u> of clause 14 proposes the insertion of a new sub-section - <u>sub-section 159J(3A)</u> - which will restore the position relating to rebates of tax in respect of dependants that had existed prior to enactment of the Domicile Act 1982. The new sub-section will ensure that, in applying the definition of "resident" for the purposes of determining dependant rebates, those dependants specified in classes 1 (spouse), 2 (daughter-housekeeper), 3 (child less than 16 years of age), 4 (student) and 5 (invalid relative) in the table in sub-section 159J(2) of the Principal Act, will be deemed to have a domicile in Australia at all times when the taxpayer has a domicile in Australia. New sub-section (3A) is framed so that it will also apply in cases where it is the wife who is the spouse who first comes to Australia. Thus, a migrant will continue to be able to claim relevant rebates of tax for a period of up to 5 years after his or her arrival in Australia, on the basis that his or her spouse and dependent children are also residents of Australia, provided that arrangements have been made for them to migrate to Australia as soon as practicable.

In order to fully restore the position of affected migrants to the date of operation of the Domicile Act 1982, <u>sub-clause (2)</u> proposes that the amendment to be made by sub-clause (1) will apply to assessments in respect of the year of income commencing on 1 July 1982 and all subsequent years.

Sub-clause (3) of clause 14, which will not amend the Principal Act, will ensure that the Commissioner of Taxation has authority to re-open an assessment made before this Bill is enacted, if it should be necessary to do so in order to allow relevant rebates that may have been denied due to the operation of the Domicile Act 1982.

Clause 15 : General concessional rebates

The amendment proposed by this clause will vary the level of expenditure above which a taxpayer is entitled to a general concessional rebate. Under section 159N of the Principal Act a taxpayer is entitled to a general concessional rebate at the standard rate of tax - 30 per cent for 1983-84 - on the excess of expenditure on certain classes of private expenditure (including superannuation contributions, life insurance premiums, net medical and hospital expenses, education expenses and private rates and land taxes) over a specified level. By sub-clause (1) this level is to be increased from $1590 to $2000.

By sub-clause (2) the amendment made by sub-clause (1) will apply in respect of the year of income that commenced on 1 July 1983 and of all subsequent years of income.

Clause 16 : Liability to provisional tax

The amendment proposed by this clause will exclude from liability to provisional tax a trustee of a trust estate in respect of income in respect of which the trustee is liable to be assessed and to pay tax under sub-section 98(3) or (4) of the Principal Act.

Sub-sections 98(3) and (4) were introduced into the Principal Act by the Income Tax Assessment Amendment Act 1983 as part of a package of amendments to facilitate the collection of tax from non-resident beneficiaries. The particular amendments made trustees primarily liable for tax, including provisional tax, in respect of trust income distributed to non-resident beneficiaries after 18 May 1983. Other existing provisions of the Principal Act authorize and require the trustees to retain, in effect, so much of any distribution to a non-resident beneficiary as is sufficient to pay the tax on that income. Because of this many trustees affected by these measures have claimed that it is not appropriate for them to be also subject to payment of provisional tax in respect of the income. They have also claimed that they are obliged to incur additional expense in establishing separate trusts in which to accumulate the amounts retained until assessments are issued to them.

To meet these representations, clause 16 proposes the insertion of a new sub-section - sub-section (1A) - in section 221YB of the Principal Act under which a trustee will be freed from liability to provisional tax under that section in respect of income in respect of which the trustee is liable to be assessed and to pay tax under sub-section 98(3) or (4) in respect of a non-resident beneficiary of a trust estate. As indicated earlier, however, in order to preserve the application of P.A.Y.E. principles to income affected by this proposed amendment, and to avoid the need for the creation of separate trusts to accumulate amounts deducted from distrtibutions to non-resident beneficiaries, trustees will be called on to promptly remit the amounts deducted to the Commissioner of Taxation when the distributions are made.

As 1983-84 is the first year in respect of which trustees affected could have been subject to provisional tax under the May 1983 amendments, and because provisional tax for that year cannot be imposed until this Bill and the accompanying Income Tax (Individuals) Bill 1983 are enacted, the amendment proposed by clause 16 will ensure that no provisional tax will become payable by such trustees.

Clauses 17-24 : Collection of tax at source from certain payments for work and associated amendment

Introductory note

The Bill will give effect to the proposal, announced in the Parliament on 5 October 1983 in response to recommendations contained in a report of the Standing Committee on Finance and Government Operations which was tabled in the Senate on 4 October 1983, to introduce amendments to the collection system involving deduction of tax at source from payments for work that are not subject to deductions under the PAYE provisions - the prescribed payments system.

Under the amendments proposed, taxpayers who, as payees, have been granted exemption from source deductions on the grounds of a good tax compliance record, will be taken outside the prescribed payments system provided that an appropriate declaration as to the holding of an exemption certificate - a reporting exemption declaration - is lodged with each payer on an annual basis, or as otherwise approved by the Commissioner of Taxation.

The amendments will also modify the provisions under which a payee may submit his or her duly completed part of the monthly deduction form no earlier than 7 days before the commencement of the month in which a payment is due. The changes proposed will mean that -

- payees will be able to lodge a deduction form at any time during the month (in lieu of the present 7 day period) preceding the month in which a prescribed payment is to be made to them (clause 20);

- where a payee has furnished a deduction form in respect of a month and payment is deferred, the deduction form will remain valid until the month during which payment is actually made. If part only of the payment is made, the payer will be required to prepare deduction forms in respect of subsequent instalments (clauses 19 and 21); and

- payees will be required to prepare and furnish to a payer only one annual deduction form where that payer undertakes to prepare deduction forms on their behalf (clauses 19 and 21).

In addition to the above changes, a minor amendment to the provisional tax self-assessment provisions is proposed by clause 17 to simplify the calculations which are required to be made by a taxpayer who wishes to vary his or her provisional tax liability on account of prescribed payment income.

Notes on the provisions of each clause follow.

<u>Clause 17 : Provisional tax on estimated income</u>

Under section 221YDA of the Principal Act, a taxpayer may furnish an estimate of his or her taxable (net) income for the current year of income in order that the person's provisional tax liability may be recalculated on the basis of that estimate.

A taxpayer seeking a variation of provisional tax under sub-section 221YDA(1) must furnish to the Commissioner a statement setting out his or her estimate of certain amounts that are needed for the purposes of the provisional tax re-calculation. Under this section the taxpayer is required to estimate his or her taxable income, and certain components thereof - in particular net prescribed payments income, net prescribed payments income subject to deductions of tax and the amount of tax deductions made in respect of that income.

This clause proposes amendments to section 221YDA which will modify these requirements for taxpayers wishing to vary their provisional tax liabilities on account of prescribed payment income and/or deductions.

Paragraph (a) of this clause will omit sub-paragraph 221YDA(1)(d)(ia) under which a person seeking a provisional tax variation is required to give an estimate, separately, of prescribed payments included in the estimate of taxable income. In future, the estimate of this component will be reflected in the category of "other income" under sub-paragraph 221YDA(1)(d)(iii).

Existing paragraph (daa) of sub-section 221YDA(1) requires a taxpayer to further break down the estimate of taxable (net) income from prescribed payments, to show separately, prescribed payments from which deductions of tax under Division 3A have been or will be made. Paragraph (b) of this clause omits existing paragraph (daa) of that sub-section and substitutes a new paragraph (daa) which will now only require a taxpayer to provide an estimate of the gross amount of prescribed payment income from which deductions have been or will be made, as a check on the estimate of the amount of tax deductions from such payments.

Sub-section 221YDA(2) provides for the calculation by the Commissioner of a taxpayer's provisional tax liability on the basis of the information the taxpayer has provided under sub-section (1). Paragraph (c) will amend sub-paragraph (a)(i) of sub-section (2), consequential on the reduction in the information to be supplied by the taxpayer effected by paragraphs (a) and (b), by omitting the reference in that sub-paragraph to "prescribed payments".

Clause 18 : Interpretation

A number of definitions and other interpretative provisions are contained in section 221YHA of the Principal Act. Each term defined has the given meaning, unless the contrary intention appears. Paragraphs (1)(a) to (f) (inclusive) of this clause will make several changes to the definitions contained in sub-section 221YHA(1), including the insertion of the following new terms -

"first instalment payment" which is to mean the first instalment payment in a series of such payments. This term, and several others in this sub-clause, is used in relation to a proposed requirement on eligible paying authorities to complete deduction forms on behalf of payees where a prescribed payment is made in 2 or more instalments over a period of more than 1 month.

"invoice" is defined as any demand or request for payment. This term is used in the definition of the term "instalment series", which is defined as a series of 2 or more prescribed payments which are made, or liable to be made, in connection with one invoice.

"non-instalment payment" is to mean a prescribed payment other than a first instalment payment or a subsequent instalment payment, that is, a prescribed payment that is not part of an instalment series.

"non-reportable payment" is defined as a prescribed payment in respect of which -

- a reporting exemption declaration is in force; or
- a reporting exemption approval number has been quoted to the eligible paying authority.

This term is used in proposed new section 221YHR (see notes on clause 23) under which prescribed payments made to payees who have obtained deduction exemption certificates on the grounds of good tax compliance may be effectively taken outside the prescribed payments system.

"obligation transfer form" means a document which will be required to be completed by an eligible paying authority who wishes to prepare deduction forms on behalf of persons to whom he or she makes prescribed payments, such as a paying authority with computerised records incorporating high speed printers. As the name suggests a payee is relieved of his or her obligations where an eligible paying authority completes one of these forms.

"reporting exemption declaration" is a document, in a form published by the Commissioner in the Gazette, which may be completed and furnished to an eligible paying authority by a payee who holds an exemption certificate on the grounds of good compliance. Where that has been done, payments by that payer to that payee will be non-reportable payments, and both the payee and eligible paying authority will be relieved of their obligations under Division 3A.

"subsequent instalment payment" is defined as any prescribed payment in an instalment series, other than the first instalment payment in the series.

Consequential on the proposed repeal of section 221YHR (clause 23), definitions of the term "reporting exemption certificate" used in that section are no longer necessary and paragraphs (1)(d) and (e) of clause 18 will omit from the existing definitions references to the term. As indicated in the notes on clause 23, this omission will not affect such certificates that are currently in force.

Paragraph (g) of this sub-clause will omit existing paragraphs 221YDA(6)(a) and (b) and substitute two new paragraphs, the effect of which will be to change the period within which a payee may complete and deliver a deduction form to an eligible paying authority. (Also see notes on clause 20).

Sub-section 221YHA(6) sets out the circumstances, in which a payee will be taken to have properly furnished a deduction form to an eligible paying authority in relation to a prescribed payment made in a month. At present, a payee cannot furnish a deduction form more than 7 days before the commencement of the month in which the payment is made. As indicated earlier, that period is to be changed to allow a payee to furnish a deduction form at any time during the month preceding the month of payment.

Under proposed paragraph (a) of sub-section 221YHA(6), a payee will be deemed to have properly furnished a deduction form in respect of a second or subsequent prescribed payment made to the payee by the eligible paying authority in a month, where the payee has previously completed the applicable part of a deduction form and delivered that form to the eligible paying authority, no earlier than the commencment of the month preceding the month of payment but before the making of the first prescribed payment.

In a case where the prescribed payment is the first payment made by an eligible paying authority to the payee in a month, paragraph (b) of sub-section 221YHA(6) will provide that the payee will be deemed to have properly furnished a deduction form to the eligible paying authority where the deduction form is completed and furnished to the payer before the prescribed payment is made to the payee, and no earlier than the commencement of the month preceding the month in which the prescribed payment is made.

Sub-clause (2) of this clause ensures that the amendments made by paragraph (g) of sub-clause (1) apply in relation to any deduction form the applicable part of which is completed by the payee after the date of commencement of this provision, that is, the date of Royal Assent to the Bill.

Clause 19 : Special provisions relating to certain prescribed payments

This clause proposes the insertion of a new section - section 221YHAA - in Division 3A of Part VI of the Principal Act. Essentially, the new section will relieve payees of the obligation to complete and furnish deduction forms, by deeming them to have properly furnished deduction forms, in circumstances described in the section as follows -

- where a payee has completed and delivered a deduction form to an eligible paying authority in respect of a prescribed payment to be made in a month, but actual payment is:

  - wholly deferred to a later month (proposed sub-section 221YHAA(1)); or

  - partly deferred to later months (proposed sub-section 221YHAA(2)); and

- where an eligible paying authority completes an obligation transfer form and delivers that form to a payee in relation to prescribed payments to be made to that payee during a year of income (proposed sub-section 221YHAA(3)).

Paragraphs (a) and (b) of sub-section (1) set out the circumstances to be satisfied before that sub-section may apply to a payee. They are that-

- the payee has completed the part of a deduction form applicable to the payee, in respect of a month, and delivered that form to an eligible paying authority (paragraph (a)); and

- no part of a prescribed payment is actually made to the payee by the eligible paying authority during that month (paragraph (b)).

In these circumstances, sub-section (1) provides that the payee shall be taken to have properly furnished a deduction form to the eligible paying authority in respect of the first subsequent month in which a prescribed payment, in whole or in part, is actually made to the payee by the eligible paying authority. In effect, this will mean that the deduction form will remain valid in the hands of an eligible paying authority until the month in which he or she actually makes a prescribed payment or a first instalment of it to the payee who has delivered the form to him.

Sub-section (2) provides for the case where a payee has, or is taken to have properly furnished a deduction form in respect of a month under sub-section (1) (paragraph (a) of this sub-section) and a first instalment payment is made to the payee in that month (paragraph (b) of this sub-section). In these circumstances, the payee is to be taken to have properly furnished a deduction form to the eligible paying authority in relation to prescribed payments made to the payee during any subsequent month or months in which -

- a subsequent instalment payment in the same instalment series is made to the payee (paragraph (c) of this sub-section); and

- no non-instalment payment or first instalment payment is made to the payee in the particular month - if any such other prescribed payments are payable or liable to be paid to the payee in the month concerned, the payee will, of course, be required to complete a deduction form in respect of the month in relation to those payments in the usual way. (See also notes on proposed sub-sub-paragraph 221YHD(1)(b)(i)(B) in clause 21).

Sub-section (3) sets out the circumstances in which a payee will be relieved of the obligation of furnishing deduction forms to a paying authority which has issued to him or her an 'obligation transfer form'. By paragraphs (a) and (b) of sub-section (3) the circumstances are that a payee completes and delivers a deduction form to an eligible paying authority in respect of a month in a year of income and, after the form is received, the eligible paying authority forwards to the payee an obligation transfer form that specifies a month (which may include the month in respect of which the payee completed the deduction form) from which the obligation transfer form has effect.

The purpose of the obligation transfer form is to permit eligible paying authorities, for whom it is convenient to do so, to complete deduction forms in relation to the year of income on behalf of persons to whom they make prescribed payments. Sub-section (3) ensures that in these cases the payee shall be taken to have properly furnished deduction forms in relation to those months of the year of income.

Under sub-section 221YHC(3), a maximum fine of $50 is provided for any payee, other than a government body, convicted of an offence for failing to complete and deliver a deduction form in respect of each month in which the payee is entitled to receive a prescribed payment. By sub-section (4) the provisions of section 221YHC do not apply in relation to prescribed payments received by a payee during a month where the payee is taken, by virtue of the operation of proposed section 221YHAA, to have properly furnished a deduction form.

By sub-clause (2), the proposed section 221YHAA will apply in relation to any deduction form the applicable part of which is completed by a payee after the date of commencement of the clause, that is, the date of Royal Assent to the Bill.

Clause 20 : Duties of payees

Section 221YHC of the Principal Act sets out the general duties of a payee who becomes entitled to receive a prescribed payment from an eligible paying authority. Under sub-section (1) of that section, a payee - other than a payee who is the holder of a deduction exemption certificate and to whom, jointly with an eligible paying authority, a reporting exemption certificate has been issued under section 221YHR - is required to complete the applicable part of a deduction form and deliver the form to the eligible paying authority. Under the present sub-section, a deduction form is to be completed, broadly, before a payee receives a prescribed payment, but no earlier than 7 days before the commencement of the month in which the payment is made.

Paragraph (a) of sub-clause (1) will make the operation of section 221YHC subject to new section 221YHAA (see notes on clause 19) as well as to new section 221YHR substituted by clause 23 (see notes on that clause). The reference to section 221YHAA complements the provisions of sub-section 221YHAA(4) - see notes on clause 19 - and makes it clear that a payee, other than a government body, who is to be taken by that new section to have properly furnished a deduction form in certain circumstances, will not be liable to a fine under sub-section 221YHC(3) for failing to personally furnish a deduction form.

Together, paragraphs (1)(b) and (c) will amend sub-section 221YHC(1) to remove the existing 7 day period for completion and delivery of deduction forms to eligible paying authorities and permit payees to complete and deliver these forms at any time during the month preceding the month in which the payment is due.

By sub-clause (2), the amendments made by sub-section (1) will apply in relation to any deduction form the applicable part of which is completed by a payee after the date of commencement of this section, that is, the date of Royal Assent to the Bill.

Clause 21 : Duties of eligible paying authorities

Section 221YHD of the Principal Act sets out the duties and obligations of eligible paying authorities (including householders) in respect of prescribed payments made during any month.

Paragraph (a) of this clause proposes a minor amendment to correct a technical reference in paragraph 221YHD(1)(b) to clarify that that paragraph is to be read as subject to sub-section (2) of the section and not to sub-sections (2) and (3).

One of the duties of an eligible paying authority under existing sub-paragraph 221YHD(1)(b)(i) is that where a payee has properly furnished a deduction form in relation to a month in which a prescribed payment is made, the paying authority is required to complete the part of the deduction form applicable to the paying authority within 14 days after the end of the month. Reflecting the fact that, by virtue of proposed new section 221YHAA (see notes on clause 19), a payee may be taken to have properly furnished a deduction form in certain situations referred to in that section, as well as in normal circumstances described in sub-section 221YHA(6), paragraph (b) proposes the omission of existing sub-paragraph 221YHD(1)(b)(i) and its replacement by a new sub-paragraph, dealing separately with deduction forms taken to be properly furnished under sub-section 221YHA(6) and those taken to be properly furnished under proposed section 221YHAA.

Under proposed sub-sub-paragraph 221YHD(1)(b)(i)(A) - which restates the existing obligation in sub-paragraph 221YHD(1)(b)(i) - an eligible paying authority is required to complete that part of a deduction form applicable to the paying authority where the payee has personally completed his part of the deduction form in respect of a month and delivered it to the paying authority.

Sub-sub-paragraph (b)(i)(B) relates to situations where a deduction form is, in effect, deemed to have been properly furnished in a month by reason only of the operation of proposed section 221YHAA. In these cases, the eligible paying authority is not only required to complete the part of a deduction form applicable to the paying authority, but also to transcribe the particulars provided in the last deduction form delivered to the paying authority by the payee. This additional requirement for transcription of the payee's particulars onto a deduction form is necessary because the payee will not have personally completed and delivered to the paying authority a deduction form for the month, except perhaps in a case to which sub-section 221YHAA(3) applies. Thus, it is only where a payee is taken to have properly furnished a deduction form under sub-section 221YHAA(1) or (2) or where, under sub-section 221YHAA(3) the eligible paying authority has forwarded to the payee an obligation transfer form for a month (even though the payee may have completed and delivered a deduction form for that month) that the paying authority is required to complete the payee's part of the deduction form under proposed sub-sub-paragraph 221YHD(1)(b)(i)(B).

Paragraphs (c) and (d) of this clause will insert an additional requirement - sub-sub-paragraph (C) - into sub-paragraph 221YHD(5)(a)(iii) which determines the rate of tax to be deducted from a prescribed payment where a payee has made a declaration in a deduction form that he or she is the holder of a deduction variation certificate and the payment is not made to the payee in person. The further requirement to be inserted in sub-paragraph 221YHD(5)(a)(iii) is that the eligible paying authority is only to deduct tax at the varied rate if he or she has no reasonable grounds for believing that the payee's deduction variation certificate is not still in force. This is an existing condition before an eligible paying authority may make a deduction of tax at a varied rate from a prescribed payment to a payee, where the payment is made in person (see sub-sub-paragraph 221YHD(5)(a)(ii)(D)). The inclusion of this additional requirement in sub-paragraph 221YHD(5)(a)(iii) will ensure consistency between these two provisions and will make it clear that an eligible paying authority is required to deduct tax at the 10 percent rate (currently provided in the regulations) where a payee, who is not paid in person, has made a declaration that he or she is the holder of a deduction variation certificate and, following revocation of that certificate, the payee advises the eligible paying authority of its revocation before a prescribed payment is made.

Proposed new sub-section 221YHD(5A) to be inserted by paragraph (e) of this clause specifies that, where a payee is taken to have properly furnished a deduction form under proposed section 221YHAA, the payee is deemed to have made the same declaration in the deduction form, for purposes of sub-paragraphs 221YHD(5)(a)(ii) or (iii), as that contained in the last deduction form completed by the payee and delivered to the eligible paying authority.

Clause 22 : Deduction exemption certificates

Section 221YHQ sets out the conditions that are to be satisfied by an applicant for a deduction exemption certificate, and the requirements to be satisfied before an eligible paying authority may act upon that certificate and make a prescribed payment to the holder of a certificate without deduction of tax.

Amendments being made to this section by paragraph (a) of this clause mirror similar amendments already discussed in relation to section 221YHD in respect of the requirements to be satisfied before an eligible paying authority may vary the rate of deduction of tax from a prescribed payment to that specified in a payee's deduction variation certificate (see notes on clause 21). Put briefly, paragraph (a) of this clause will substitute a new paragraph (9)(b) in section 221YHQ, the effect of which will be to require that, as in the case where payment is made to a payee in person, an eligible paying authority must, when making a payment other than to a payee in person, also have no reasonable grounds for believing that a deduction exemption certificate has been revoked, before making a prescribed payment without deduction of tax.

Proposed new sub-section 221YHQ(10), to be inserted by paragraph (b) of this clause, will deem a deduction exemption certificate holder who, pursuant to section 221YHAA, is taken to have properly furnished a deduction form, to have made in that deduction form a declaration regarding the holding of that exemption certificate if the last deduction form completed and furnished to the paying authority by that payee contained a declaration to that effect. This proposed sub-section is equivalent in effect to proposed new sub-section 221YHD(5A) (see notes on clause 21).

Clause 23 : Reporting exemptions

This clause proposes the repeal of existing section 221YHR which provides for the issue of reporting exemption certificates and the insertion of a new section 221YHR, the effect of which will be to allow payees who are the holders of deduction exemption certificates on the grounds of good tax compliance to avoid the need to complete and deliver deduction forms to eligible paying authorities on a monthly basis, as well as relieving the paying authority of the need to report details of payments to the payee each month. The proposed section provides two avenues by which the holder of a deduction exemption certificate may do this, involving either the lodgment of an annual declaration with each eligible paying authority, or adoption of a quotation arrangement as approved by the Commissioner of Taxation.

Under sub-section (1), a person who is the holder of a deduction exemption certificate on the basis of a good record of tax compliance (that is, having satisfied conditions set out in paragraphs 221YHQ(2)(a) to (e) (inclusive) or by virtue of sub-section 221YHQ(4)) may furnish to an eligible paying authority a reporting exemption declaration (as defined in sub-section 221YHA(1) - see notes on clause 18) in relation to a financial year, that is, a year ending on 30 June.

Sub-section (2) provides that such a declaration will have effect in relation to all prescribed payments made by an eligible paying authority to the payee who has furnished the declaration from the date the declaration is furnished until either the succeeding 30 June or the date of expiration of the payee's deduction exemption certificate, whichever is the earlier.

Under sub-section (3), the eligible paying authority who has received a reporting exemption declaration from a payee will be required to forward that declaration to the Commissioner within 14 days after the end of the month in which the declaration is received. This is the same time limit as applies in respect of the remittance of deductions from prescribed payments and the delivery of deduction and reconciliation forms by an eligible paying authority under section 221YHD. The eligible paying authority is also to be required to keep a copy of the declaration until the end of the financial year as a record that the payee and payer do not have to complete monthly deduction forms for that financial year.

Sub-section (4) provides that a fine up to $2,000 may be imposed on an eligible paying authority, other than a government body, on conviction by a court for having failed to comply with the requirements of sub-section (3).

Under sub-section (5) a payee who is the holder of a deduction exemption certificate on the grounds of a good tax compliance record may, alternatively, apply to the Commissioner for approval to quote a special reporting exemption approval number to eligible paying authorities with whom he or she deals.

A payee who in the course of business deals with a significant number of different eligible paying authorities, possibly other than on a regular basis, may wish to take advantage of this quotation arrangement. Where the Commissioner grants an approval to a person to quote a reporting exemption approval number, the payee could be expected to incorporate into business stationery, such as statements, accounts and invoices, a notice to customer's that the payee has been granted a reporting exemption approval number.

Of course, a payee who has furnished a reporting exemption declaration to payers will be entitled, if the payee so chooses, to indicate on invoices and other claims for payment that the payee is in the position where payments to the payee are outside the prescribed payments system.

Sub-section (6) specifies that an approval to quote a reporting exemption approval number will remain in force while the deduction exemption certificate to which the approval relates remains in force.

Under proposed sub-section (7) a maximum penalty of $5,000 or 12 months imprisonment, or both, may be imposed where a person quotes a number, as a reporting exemption approval number, but the number has not been the subject of an approval in accordance with sub-section (5), or falsely represents that an approval of the Commissioner is in force in relation to the person.

Sub-section (8) will ensure that a person who has been granted approval to quote a reporting exemption approval number under sub-section (5), and whose deduction exemption certificate has been revoked, cannot be penalised under sub-section (7) for quoting the exemption approval number or representing that an approval is in force after the deduction exemption certificate has been revoked until after that person has received notification of the revocation of the deduction exemption certificate from the Commissioner.

Under proposed sub-section (9) it will be an offence for a payee whose deduction exemption certificate is revoked to fail to give notice of the revocation to persons to whom a reporting exemption declaration has been given or a reporting exemption approval number quoted. The maximum fine on conviction is to be $2,000.

Sub-section (10) effectively relieves a payee who has furnished a reporting exemption declaration, or quoted a reporting exemption approval number, from the obligation to furnish monthly deduction forms in respect of prescribed payments from an eligible paying authority to whom the declaration was furnished or the number was quoted (see, also, the notes on the defined term "non-reportable payment" - clause 18).

Sub-section (11) will similarly relieve an eligible paying authority making prescribed payments which he or she believes, on reasonable grounds, to be covered by a current reporting exemption declaration or exemption approval number, from the obligation to report to the Commissioner details of prescribed payments made to the payee concerned.

Sub-clause (2) will ensure that any reporting exemption certificates issued under section 221YHR prior to its repeal, will remain in force in respect of prescribed payments to which the certificates relate, as if the repeal had not been made.

Clause 24 : Offences

Under section 221YHU of the Principal Act, a number of offences have been specified which relate to attempts to unlawfully circumvent the operation of the provisions of Division 3A, or to fraudulently obtain a credit in respect of deductions of tax under that Division.

It is an offence, under paragraph (f) of the section, where a person, by presenting a document other than a prescribed certificate issued to him that is currently in force, causes an eligible paying authority not to make the appropriate amount of deduction from a prescribed payment. The penalty prescribed for offences under the section (including paragraph (f)) is a fine of $5,000 or imprisonment for 12 months, or both.

By clause 24 existing paragraph (f) is to be replaced. The new paragraph (f) will ensure that a payee who causes an eligible paying authority not to make a deduction of tax from a prescribed payment by virtue of the production of a reporting exemption declaration or a document in which is quoted a reporting exemption approval number will not be guilty of an offence under this section.

Clause 25 : Provisional tax for 1983-84 year of income

The purpose of this clause, which will not amend the Principal Act, is to specify the basis for calculating 1983-84 provisional tax for taxpayers who do not "self-assess". Broadly, sub-section (1) will ensure that the provisional tax is to be calculated by applying 1983-84 rates of tax to 1982-83 taxable incomes as increased by 11 per cent. Except as outlined below, rebates are to be taken into account as allowed in assessments of tax based on 1982-83 income.

Where the taxpayer has been allowed, in his or her 1982-83 income tax assessment, a spouse, daughter-housekeeper or housekeeper rebate based on the higher maximum rebate amount applicable on a part year basis in 1982-83 to a person with dependent children, that is, $963, or a sole parent rebate, then the relevant rebates - including zone rebates as appropriate - will be increased to reflect the higher amounts allowable, on a full year basis, in 1983-84. Any rebate allowed in the taxpayer's 1982-83 assessment in respect of rebatable amounts in excess of $1,590 will be recalculated to reflect both the increase in the amount (from $1,590 to $2,000) above which a percentage of any excess expenditure is allowable as a rebate and the full year effect in 1983-84 of the decrease in that percentage in line with the reduction of the standard rate of tax to 30%. Any pensioner rebate to which a taxpayer may be entitled in his or her 1982-83 assessment on the part year basis applicable in that year will also be recalculated to reflect the full year entitlement to the rebate in 1983-84. The maximum rebate of $167 allowable in 1982-83 will be $250 in 1983-84 and the level of taxable income of $5,008 at which the rebate began to shade-out in 1982-83 has been increased to $5,430 for 1983-84.

Where, in a taxpayer's 1982-83 assessment, he or she was entitled to, or where, based on the information available from his or her 1982-83 income tax return, the Commissioner considered that, but for a greater rebate having been allowable in that year on the basis of interest payments in excess of a 10 per cent rate, he or she would have been entitled to a rebate for home loan interest payments during the first five years of owner/occupancy of a dwelling, then such a rebate may be allowed in calculating provisional tax. However any amount allowed will reflect the income test introduced after 30 September 1983 in respect of such a rebate, as well as the annual $100 reduction in the maximum rebate allowable.

The dividend rebate, the health insurance rebate and the home loan interest rebate - allowed on interest payments in excess of a 10 per cent rate - are not to apply from 1 July 1983 and none of these rebates will be allowed in the 1983-84 provisional tax calculation. A taxpayer whose 1982-83 assessment was non-taxable by virtue only of an amount having been allowed for one or more of these particular rebates, will have provisional tax levied for 1983-84.

Where a taxpayer chooses to "self-assess", i.e., to have 1983-84 provisional tax based on his or her own estimate of 1983-84 income, the provisional tax will be, basically, the amount calculated by applying 1983-84 rates of tax to that estimated income and by deducting estimated 1983-84 rebates.

For a taxpayer whose 1982-83 taxable income reflects a deduction allowed for capital moneys expended in producing a qualifying Australian film, 1983-84 provisional tax is, by virtue of existing sub-section 221YA(5) of the Principal Act, to be calculated as if no such deduction had been allowed, with the taxable income so adjusted increased by 11 per cent.

For primary producers who do not self assess, the clause will require that for provisional tax purposes, the amended averaging arrangements (clauses 11 and 12 of this Bill and clause 3 of the Income Tax (Rates) Amendment Bill (No. 2) 1983 refer) will apply. For these taxpayers the 1982-83 taxable income (as adjusted for any income equalisation deposits or withdrawals or capital expenditure on a qualifying Australian film) will be increased by 11 per cent. 1983-84 rates of tax (including the amendments to be made to the Income Tax (Rates) Act 1982 as part of the revised averaging arrangements) will be applied, on the basis of the average income for 1982-83 assessment purposes - the average income itself will not be recalculated to reflect the notional 11 per cent increase of taxable income for provisional tax purposes. If a primary producer qualified for a part only of the averaging benefit in 1982-83, that is, his or her income other than from primary production in that year exceeded $5,000, the clause will ensure, in effect, that the proportion of the averaging adjustment - equal to the proportion which income from primary production bears to total taxable income - to be taken into account in calculating 1983-84 provisional tax is to be the same as the 1982-83 proportion, that is, it is not to be reduced to reflect the notional 11 per cent increase in income other than from primary production.

For taxpayers deriving a notional income as specified by section 59AB (depreciation recouped), section 86 (lease premiums), or section 158D (abnormal income of authors or inventors) of the Assessment Act, provisional tax, before deduction of rebates, is to be calculated by applying to their 1982-83 taxable income increased by 11 per cent, the 1983-84 rate of tax applicable to their 1982-83 notional income, that is the rate of tax is not to be increased to reflect a 11 per cent increase in notional income.

Taxpayers who were minors, that is, under 18 years of age, at 30 June 1983 were liable for tax for 1982-83 under the income tax provisions applying to minors if the minor's eligible taxable income for the purposes of Division 6AA of Part III of the Assessment Act for that year was greater than $1,040, in the case of a resident, or $136 in the case of a non-resident. For purposes of the 1983-84 provisional tax calculation, the portion of a minor's taxable income, as increased by 11 per cent, that is to be taken as eligible taxable income, is to be the same as that which the 1982-83 eligible taxable income of the taxpayer bore to his or her taxable income for that year. The reduction, with effect from 1983-84, in the level of eligible taxable income above which the higher rate of tax under Division 6AA applies, from $1,040 to $416, will be reflected in increased provisional tax for 1983-84 (see notes on clauses 4 to 6 (inclusive) of the Income Tax (Rates) Amendment Bill (No. 2) 1983) as will the full year effect in 1983-84 of the withdrawal of the minimum taxable income level from non-resident minors.

By virtue of sub-clauses (2) and (3), where an amount of 1983-84 provisional tax is payable, an amount, additional to the provisional tax otherwise payable, representing medicare levy for 1983-84 is to be incorporated in 1983-84 provisional tax. Sub-clause (2), which is qualified by sub-clause (3), contains the basic provisions designed to achieve that result.

By <u>sub-clause (2)</u> the calculation of the medicare levy component of provisional tax will be based upon the 1982-83 taxable income as increased by 11 per cent, and will by payable at a rate of 0.416 per cent of that taxable income. The maximum amount of levy payable as additional 1983-84 provisional tax will be $291.20, with no levy being payable by a taxpayer whose taxable income does not exceed $6,698.

Against the background that sub-clause (2) has provided for the inclusion of the levy in 1983-84 provisional tax, <u>sub-clause (3)</u> is designed to empower the Commissioner to exclude or reduce the levy component if he considers that the taxpayer will be exempt from the levy or liable to some lesser amount of levy in 1983-84. This power would, for example, be exercised to exempt from any levy imposed under sub-clause (2) a taxpayer whose taxable income is below the family levy threshold of $11,141 where the taxpayer has claimed a spouse rebate in his 1983-84 return.

INCOME TAX (RATES) AMENDMENT BILL (NO. 2) 1983

This Bill will amend in two respects the Income Tax (Rates) Act 1982 - the Principal Act - which declares the rates of tax payable for the 1983-84 and subsequent financial years by individuals and trustees generally. The amendments are related to changes to the averaging system, and give effect to the decision announced in the May Economic Statement, to reduce from $1,040 to $416 the income threshold at which special rates of tax become payable under Division 6AA of the Principal Act in respect of certain income of some unmarried minors.

The first amendment will be given effect by clause 3, and the second amendment will be achieved by clauses 4 to 6 of the Bill.

By clause 3 of this Bill two new sub-sections - sub-sections 13(2A) and 13 (2B) - will be inserted in the Principal Act by paragraph (a) of the clause and certain consequential amendments will be made to the formulae in existing sub-sections 13(5) and 13(6) by paragraphs (b) to (e).

New sub-section 13(2A) will set out the method of calculation of the rate of complementary tax payable under sub-section 156(4A) as proposed to be inserted in the Income Tax Assessment Act 1936 by clause 12 of the Income Tax Assessment Amendment Bill (No. 4) 1983. By the new sub-section 13(2A) the rate of complementary tax that can arise to be paid on taxable income from primary production by an individual taxpayer under the revised system of averaging for primary producers is set out. The rate of complementary tax is to be determined by dividing the excess referred to in proposed new sub-section 156(4A) by the amount of the taxpayer's taxable income. That excess is the excess of the amount of tax that would be payable on the taxable income if the tax were calculated at average tax rates (referred to in sub-section 156(4A) as notional rates) over tax payable at ordinary rates. The operation of proposed sub-section 156(4A) is explained earlier in the notes on clause 12 of the Income Tax Assessment Amendment Bill (No. 4) 1983.

New sub-section 13(2B) similarly enables the rate of complementary tax payable by a trustee of a trust estate to be established where the trustee is required to pay the tax by operation of the new sub-section 156(5A) of the Assessment Act proposed by clause 12 of the amending Bill. The method of calculation is as described above in relation to individuals.

Paragraphs (b), (c), (d) and (e) of clause 3 propose amendments to sub-section 13(5) and 13(6) of the Principal Act consequent on the amendments proposed by paragraph (a) by which new sub-sections (2A) and (2B) will be inserted.

Section 13 of the Principal Act prescribes the rates of tax for various classes of taxpayer. In particular, sub-sections 13(5) and (6) prescribe the rates of tax in respect of certain partnership income identified by section 94 of the Income Tax Assessment Act 1936 and of which the partner does not have real and effective control. The purpose of the consequential amendments proposed by paragraphs (b), (c), (d) and (e) of clause 3 is to ensure that the effects of any complementary tax payable by a taxpayer by reason of the new sub-sections (2A) or (2B) are correctly taken into account in the calculation of the further tax payable under section 94 of the Assessment Act.

Clause 4 will amend section 14 of the Principal Act which declares the rates of tax payable for the 1983-84 and subsequent financial years by a resident taxpayer who is a minor, or a trustee assessed on behalf of a resident minor beneficiary, and whose taxable income includes income that is eligible taxable income for the purposes of Division 6AA of Part III of the Assessment Act.

Paragraph (a) of clause 4 will reduce the level above which those rates of tax become payable on eligible income from $1,040 to $416. Consequential on the amendment being effected by paragraph (a), paragraph (b) will reduce the upper limit of the income range over which tax at full Division 6AA rates is shaded-in at the rate of 66 per cent, on incomes marginally in excess of $416, from $3,432 to $1,372.

Clause 5 will amend section 16 of the Principal Act which applies to non-residents in much the same way as section 14 applies to residents. Paragraph (a) will reduce the level above which the special rates of tax will become payable, and below which a minimum rate of 30 per cent applies, from $1,040 to $416. Consequential on that change, paragraph (b) will reduce the upper limit of the special shading-in range from $1,872 to $748, while paragraph (c) will reduce the amount of tax specified in the shading-in arrangements from $312, being tax at 30 per cent on the existing income amount of $1,040, to $124.80, being tax at 30 per cent on the proposed income amount of $416.

The rates of tax payable on eligible income to which section 14 and section 16 applies are set out in Schedule 11. Clause 6 proposes an amendment to that Schedule to substitute $416 for $1,040 so that the special rates of tax will apply to eligible income which exceeds $416.

INCOME TAX (INDIVIDUALS) BILL 1983

This Bill will formally impose the tax payable in respect of income derived by individuals, and by trustees generally, during the 1983-84 income year. As is customary in such a Bill, it will also formally impose 1983-84 provisional tax. It is complementary to the Income Tax (Rates) Act 1982 which, subject to the amendments to be made by the accompanying Income Tax (Rates) Amendment Bill (No. 2) 1983, has already declared the rates of tax to apply to such taxpayers.

The Bill is similar to the Income Tax (Individuals) Act 1982 and the following notes are confined to the major clauses of the Bill.

Clause 5 : Imposition of income tax

Sub-clauses (1) and (2) have the effect, when read with clause 7, of formally imposing income tax payable by individuals and trustees (other than trustees of superannuation funds or of corporate unit trusts, or trustees assessed under section 98(3) of the Assessment Act in resect of income of a non-resident company beneficiary in respect of which the relevant rates of tax are to be declared and imposed by the accompanying Income Tax (Companies, Corporate Unit Trusts and Superannuation Funds) Bill 1983) for the 1983-84 financial year. The rates to be applied are, subject to the amendments to be made by the Income Tax (Rates) Amendment Bill (No. 2) 1983 (see notes on that Bill), those declared for that year by the Income Tax (Rates) Act 1982.

The general rates of tax declared by the Act for 1983-84 are as follows:

1. Resident Taxpayers

Parts of Taxable Income

Exceeding $	Not Exceeding $	Standard Rate %	Surcharge %	Total %
4,595	19,500	30	-	30
19,500	35,788	30	16	46
35,788	-	30	30	60

Tax payable may be calculated from the following table :

Parts of Taxable Income

Exceeding $	Not Exceeding $	Tax on Total Taxable Income
0	4,595	NIL
4,595	19,500	NIL + 30 cents for each dollar of taxable income in excess of $4,595.
19,500	35,788	$4,471.50 + 46 cents for each dollar of taxable income in excess of $19,500.
35,788	-	$11,963.98 + 60 cents for each dollar of taxable income in excess of $35,788.

2. Non-resident Taxpayers

Parts of Taxable Income

Exceeding $	Not Exceeding $	Standard Rate %	Surcharge %	Total %
0	19,500	30	-	30
19,500	35,788	30	16	46
35,788	-	30	30	60

Tax payable may be calculated from the following table :

Parts of Taxable Income

Exceeding $	Not Exceeding $	Tax on Total Taxable Income
0	19,500	30 cents for each dollar of taxable income.
19,500	35,788	$5,850.00 + 46 cents for each dollar of taxable income in excess of $19,500.
35,788	-	$13,342.48 + 60 cents for each dollar of taxable income in excess of $35,788.

Sub-clause (3) excludes from the scope of the Bill taxes that are payable in accordance with various sections of the Assessment Act and which are imposed by separate Acts. These other taxes and the relevant sections of the Assessment Act involved are those imposed on diverted income (section 121H), interest paid on bearer debentures (section 126), withholding taxes (sections 128B, 128N and 128V), branch profits tax (section 128T), film and video tape royalties (section 136A) and the redemption of drought bonds in certain circumstances (section 159C).

Clause 7 : Levy of tax

Clause 7 operates to formally levy the tax imposed by clause 5 of the Bill in respect of the 1983-84 financial year and, until the Parliament otherwise provides, for the 1984-85 financial year.

Clause 8 will formally impose provisional tax for the 1983-84 financial year on the basis specified in clause 25 of the Income Tax Assessment Amendment Bill (No. 4) 1983. The method of calculation of 1983-84 provisional tax is described in earlier notes relating to that clause.

INCOME TAX (COMPANIES, CORPORATE UNIT TRUSTS AND SUPERANNUATION FUNDS) BILL 1983

The main purpose of this Bill is to impose income tax for the 1983-84 financial year, at the rates declared in the Bill, on the 1982-83 incomes of companies and of corporate unit trusts, and the 1983-84 incomes of superannuation funds. It also imposes tax on a trustee in respect of income of a non-resident company beneficiary where the trustee is assessed under sub-section 98(3) of the Assessment Act on that income.

Other rates of income tax payable for the 1983-84 financial year - by individuals and by trustees generally - as declared by the Income Tax (Rates) Act 1982 will be imposed by the Income Tax (Individuals) Bill 1983; the "branch profits" tax that is payable by non-resident companies is imposed by the Income Tax (Non-Resident Companies) Act 1978; and other rates of tax payable under particular sections of the Assessment Act are imposed by the Income Tax (Dividends and Interest Withholding Tax) Act 1974, the Income Tax (Film Royalties) Act 1977, the Income Tax (Drought Bonds) Act 1969, the Income Tax (Bearer Debentures) Act 1971, the Income Tax (Withholding Tax Recoupment) Act 1971, the Income Tax (Mining Withholding Tax) Act 1979 and the Income Tax (Diverted Income) Act 1981.

The practical effect of the present Bill, apart from the rate of tax payable by friendly society dispensaries being increased from 41% to 46% and the inclusion of the rate of tax payable by a trustee assessed under sub-section 98(3) of the Assessment Act, will be the same as the Income Tax (Companies, Corporate Unit Trusts and Superannuation Funds) Act 1982, which declared and imposed the rates of income tax payable by companies, corporate unit trusts and superannuation funds for the 1982-83 financial year.

The rates of income tax declared by clauses 6 to 9 of this Bill for the 1983-84 financial year are as follows:

- by clause 6, the general rate of tax payable on taxable income of companies is to remain at 46 per cent;

- by clause 6, the rate of additional tax payable by a private company on the amount by which dividends paid fall short of a sufficient distribution remains at 50 per cent;

- by clause 7, the rate of tax payable by a trustee on the net income of a corporate unit trust to which section 102K of the Assessment Act applies remains at 46 per cent;

- by clause 8, the rate of tax payable on investment income of a superannuation fund that does not, under the "30/20" rule, invest a sufficient proportion of its assets in public securities remains at 46 per cent;

- by clause 8, the rate of tax payable on certain taxable income of superannuation funds to which section 121CA or 121CB of the Assessment Act applies is to remain at 50 per cent;

- by clause 8, the rate of tax payable on income of trusts qualifying as superannuation funds to which section 121DA of the Assessment Act applies is to remain at 60 per cent; and

- by clause 9, the rate of tax payable by a trustee on the share of income in respect of which, broadly, a non-resident company beneficiary is presently entitled, is 46 per cent.

Clause 11 formally levies tax imposed by clause 5 at the rates declared in clauses 6 to 9 inclusive for the 1983-84 financial year and, until the Parliament otherwise provides, for the 1984-85 financial year.

Clause 13 of the Bill will authorise the collection of instalments of company tax and corporate unit trust tax in the 1984-85 financial year in accordance with the relevant provisions of the Assessment Act. Under those provisions, the first of three such instalments is due not earlier than 15 August 1984.

INCOME TAX (BEARER DEBENTURES) AMENDMENT BILL 1983

The purpose of this Bill is to alter the basic rate of tax payable under section 126 of the Assessment Act on interest paid by a company on bearer debentures where the names and addresses of the holders of the debentures are not provided by the company to the Commissioner of Taxation. To this end, the Bill will amend the Income Tax (Bearer Debentures) Act 1971 - the Principal Act.

This will be achieved by clause (3) which proposes that paragraph (b) of section 6 of the Principal Act be omitted and a new paragraph (b) be substituted.

Paragraph (b) will apply in relation to interest subject to tax under section 126 of the Assessment Act to which paragraph (a) does not apply. Paragraph (a) applies to bearer debentures issued abroad in respect of foreign currency loans the interest on which has not been exempt from withholding tax, and the rate of tax applicable - 10 per cent - is equal to the rate of interest withholding tax. At present the rate of tax applicable under paragraph (b) is 55 per cent (sub-paragraph (ii)) and this rate will continue to apply to interest paid or credited before the date of commencement of this amending Act. For interest paid on or after the commencement date, sub-paragraph (iii) declares the rate of tax to be 60 per cent. This will bring the rate in these cases into line with the anti-avoidance rate payable in respect of accumulating trust income assessed under section 99A of the Income Tax Assessment Act.

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