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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

STATES (TAX SHARING AND HEALTH GRANTS) AMENDMENT BILL 1983

EXPLANATORY MEMORANDUM

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

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### STATES (TAX SHARING AND HEALTH GRANTS) AMENDMENT BILL 1983

The purpose of this Bill is to amend the States (Tax Sharing and Health Grants) Act 1981 to ensure that tax sharing payments to the States made under the Act are based on a share of "total" net Commonwealth tax collections.

In 1981, an understanding was reached with States that they would receive tax sharing grants calculated by reference to a "total" tax base rather than the personal income tax base used in previous arrangements. The States (Tax Sharing and Health Grants) Act 1981 was intended to embody that understanding and determinations of tax sharing entitlements made to date under the Act have been consistent with that intention.

Recently, however, doubts have arisen as to whether the definition of income tax collections under the legislation is on the intended basis. Specifically, under a strict interpretation, the Act appears to allow amounts received by the Commonwealth in respect of income tax to be included in the tax base only at such time as they are brought to assessment. A part of the amount of PAYE tax, company tax or provisional tax instalments collected by the Commonwealth could therefore, under that strict interpretation, be excluded. Late payment and other penalty taxes could also be excluded.

Now that the implications of the existing legislation have been recognised, it is necessary to amend the Act to ensure that, in future, determinations of the tax base continue to conform with the understanding reached with the States.

The understanding reached with the States also requires that newly introduced Commonwealth taxes be included in the tax base. Taxes collected under the Bank Account Debits Tax Administration Act 1982 and the Taxation (Unpaid Company Tax) Assessment Act 1982 fall into this category. While the existing legislation allows for such new inclusions through the promulgation of regulations, the necessity for other amendments relating to the definition of the tax base provides an opportunity to make these other inclusions concurrently.

## NOTES ON CLAUSES

### Clause 1 - Short title, &c.

Self explanatory

### Clause 2 - Commencement

Sub-section (1) is self explanatory

Sub-section (2) backdates the operation of section 3 of the Bill to the date of Royal Assent of the Principal Act to make past determinations consistent with the amended Act.

### Clause 3 - Interpretation

Amends section 4 of the Principal Act so that, in widening the definition of collections to be included in the tax base, practical difficulties regarding the identification and timing of these collection are minimised.

### Clause 4 - Taxes collected by the Commonwealth

Amends section 6 of the Principal Act to include, in the tax base, collections of penalty tax and tax instalments but to deduct payment by the Commonwealth of interest on overpayments.

### Clause 4 - Schedule 1

Updates the schedule of Commonwealth taxes in the Principal Act to include newly introduced tax collections in the tax sharing base.