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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

SOCIAL SECURITY LEGISLATION AMENDMENT BILL (NO. 2) 1994

EXPLANATORY MEMORANDUM

SUPPLEMENTARY MEMORANDUM

AMENDMENTS RELATING TO NET RENTAL PROPERTY LOSS

**(Circulated by authority of the Hon Janice Crosio MBE MP,
Parliamentary Secretary to the Minister for Social Security,
representing the Minister for Social Security)**

SOCIAL SECURITY LEGISLATION AMENDMENT BILL (NO. 2) 1994

OUTLINE AND FINANCIAL IMPACT STATEMENT

The amendments affect the *Social Security Act 1991* and implement a 1993 Budget measure.

Treatment of negative gearing

From 1 January 1995, the income test for family payment and the parental income test for 'under age' job search allowance and sickness allowance will be amended so that certain tax deductible expenses on rental property are included as income. As a result, income testing arrangements for those payments will be more equitable and improve targeting of the payments. Similar amendments are proposed for AUSTUDY.

This measure follows on from the decision in the 1992 Budget to add back to taxable income the value of certain employer provided fringe benefits for the purposes of applying the income tests for those same payments.

Estimated total savings from this measure are \$2.21m in 1994-95, \$6.12m in 1995-96 and \$6.20m in 1996-97.

NOTES ON AMENDMENTS

Family payment (FP) is subject to an income test which takes into account the income of the applicant and his or her partner. Job search allowance (JSA) and sickness allowance (SA) for those aged under 18 years (under age) are also subject to an income test which takes account of the applicant's parents' income (the parental income test).

Currently, the income test for FP and the parental income test for JSA/SA is based on 'taxable income' as defined in the *Income Tax Assessment Act 1936* (the Tax Act). If a person has rental property, the Tax Act allows the person to deduct certain expenses from the income gained from the property. Any resulting income losses can be offset against other income of the person with the person paying tax on the net figure - 'taxable income'. This process is known as 'negative gearing'. Since the net taxable income figure is also used in income testing for FP and JSA/SA, a person also gets the benefit of 'negative gearing' for social security purposes.

As announced in the 1993 Budget, the income test for FP and the parental income test for 'under age' JSA/SA will be amended from 1 January 1995 so that these deductions will be included as income. Accordingly, income testing arrangements will be more equitable and improve targeting of these payments. This measure follows on from the decision in the 1992 Budget to add back to taxable income the value of certain employer provided fringe benefits for the purposes of applying the income tests for these same payments.

Amendment (1)

This amendment provides for the measure to commence on 1 January 1995.

Amendment (2)

Clause 42E inserts a new definition of 'net rental property loss' into section 10A of the Principal Act. The definition of 'net rental property loss' is set out in new subsection 10A(15). The net rental property loss of a person for a particular tax year is the amount by which expenses incurred by the person on rental property in that year exceed income from rental property in that year. If the expenses do not exceed the income, the amount is nil.

Clause 42F makes amendments to Benefit Rate Calculator A (that sets out the parental income test for under age JSA/SA) in section 1067 of the Principal Act.

Clauses 42F(1)(a) to (f) omit the word 'taxable' from a number of provisions in Benefits Rate Calculator A to enable later provisions, which add back rental property losses, to work.

Clause 42F(1)(g) is an important provision that inserts new point 1067-G23 into the Principal Act. This new provision ensures that, for the purposes of the parental income test for 'under age' JSA/SA, income is taken to be sum of the person and their partner's taxable income *and net rental property losses*.

Clause 42F(2) provides that the amendments made by clause 42F(1) apply to JSA/SA payable on or after 1 January 1995 and to losses incurred before, on or after that date.

Clause 42G changes the Rate Calculator for Family Payment.

Clause 42G(1)(a) inserts a new point 1069-H2D into the Rate Calculator for Family Payment to make sure that the net rental property losses of the person's partner are counted as the person's when applying the income test.

Clause 42G(1)(b) substitutes a new point 1069-H21 that makes sure that, for the purposes of the income test, income for a particular tax year is the sum of the person's (and their partner's) taxable income, adjusted fringe benefit value, target foreign income *and net rental property losses* for the year.

Clause 42G(1)(c) adds two new steps to the method statement for basic Family Payment so that a person's net rental property losses are added to income.

Clause 42G(1)(d) adds a note at the end of point 1069H-22 directing the reader to subsection 10A(15) for the definition of 'net rental property loss'.

Clause 42G(1)(e) adds two new steps to the method statement for additional Family Payment so that a person's net rental property losses are added to income.

Clause 42G(1)(f) adds a note at the end of point 1069H-27 directing the reader to subsection 10A(15) for the definition of 'net rental property loss'.

Clause 42G(2) provides that the amendments made by clause 42G(1) apply to FP payable on or after 1 January 1995 and to losses incurred before, on or after that date.

