

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

TAXATION LAWS AMENDMENT (PRIVATE HEALTH INSURANCE
INCENTIVES) BILL 1996

EXPLANATORY MEMORANDUM

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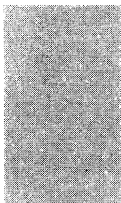


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General outline and financial impact

Medicare levy surcharge

- Makes consequential amendments to the *Income Tax Assessment Act 1936* to impose the Medicare levy surcharge on certain prescribed persons with dependants.
- Makes a minor technical amendment.

Date of effect: The Medicare levy surcharge is to commence on 1 July 1997. The minor technical amendment is to apply from 1 July 1994.

Proposal announced: 1996-97 Budget, 20 August 1996.

Financial impact: The combined financial impact of this Bill along with the Medicare Levy Amendment Bill (No. 2) 1996, in relation to the Medicare levy surcharge, will be an estimated additional revenue of \$60 million in 1998-99 and \$75 million in 1999-00.

Compliance cost impact: Taxpayers who do not have private patient hospital insurance will need to understand the new taxation rules in order for them to calculate their liability for the surcharge. Those who do have insurance will need to keep a record of their coverage and to provide information in tax returns.

The surcharge is to be payable on assessment along with other tax liabilities. The cost of paying this debt can be minimised by electing to use the electronic fund transfers facility in tax returns or, for salary or wage earners, by choosing for extra tax instalments to be deducted throughout the year.

Where extra instalments are involved the employers will incur compliance costs through having to keep extra records, make calculations and modify payroll systems.

Health funds will have to deal with increased enquiries but these should result in increased business. They may also incur costs associated with the provision of information to the Commissioner of Taxation to enable the checking of information provided in tax returns.

Private health insurance rebate

Inserts a new subdivision 61-G in the proposed *Income Tax Assessment Act 1996* to provide an income tax offset for taxpayers on lower incomes who take out private health insurance and makes supporting amendments to the *Income Tax Assessment Act 1936*.

The tax offset is complementary to benefits available under the Private Health Insurance Incentives Bill 1996 in the form of reduced premiums for private health insurance.

Date of effect: 1 July 1997 for assessments for the 1997-98 income year and subsequent income years.

Proposal announced: Foreshadowed by the Government during the 1996 election and details announced in the 1996-97 Budget.

Financial impact: A cost to revenue of \$113 million in 1998-99 and \$114 million in 1999-00.

Compliance cost impact: To determine their entitlement to incentives for private health insurance, taxpayers will need to understand the new taxation and health rules relating to incentive eligibility. Taxpayers will need to collect information and make calculations to determine their eligibility and whether to claim the incentive through the health or taxation system.

Eligible taxpayers will need to keep records relating to their private health insurance coverage.

Explanation of the incentive for private health insurance and the accompanying rules will be contained in Taxpack.

It is expected health funds will experience increased enquiries from the public as a result of the incentives. They may also incur costs relating to the provision of information to the Commissioner of Taxation for the purpose of checking the validity of information provided by taxpayers in tax returns.

At first it is not expected that data concerning persons who have private health insurance will be sought from all health funds. Rather, it is expected that the Commissioner will adopt a sampling approach as a means of assessing the degree of taxpayer compliance. The need for more comprehensive collection of data from funds will depend on the outcome of the initial risk assessment.

Medicare levy surcharge

Overview

1.1 The Taxation Laws Amendment (Private Health Insurance Incentives) Bill 1996 (the Bill) amends the *Income Tax Assessment Act 1936* (the Act) to supplement amendments made by the Medicare Levy Amendment Bill (No. 2) 1996 (the Surcharge Bill). The Surcharge Bill imposes an increased amount of Medicare levy (referred to here as 'surcharge') on people with high incomes who do not take out private patient hospital cover.

Summary of the amendments

Purpose of the amendments

1.2 The amendments will:

- ensure that present Medicare levy exemptions for prescribed persons do not apply to the surcharge where any member of a family is not a prescribed person and is not covered by private patient hospital cover; and
- make a minor technical amendment.

Date of effect

1.3 The amendments in relation to the surcharge will apply from 1 July 1997, in respect of the 1997-98 and subsequent years. The minor technical amendment will apply from 1 July 1994.

Background to the legislation

1.4 The Government announced in the 1996-97 Budget that a 1 per cent Medicare levy surcharge is to be imposed on single people and families with taxable incomes above stated thresholds that do not have

private hospital cover through private health insurance. The surcharge is part of a package of measures designed to encourage taxpayers to retain or take out a private health insurance policy.

1.5 The surcharge operates as an additional amount of Medicare levy payable rather than as a separate charge and, consequently, is based largely on existing Medicare levy provisions. However, there are several important differences between the application of the normal rate levy and the increased rate. They involve certain persons who are prescribed persons, that is, persons who are exempt from Medicare levy (eg Defence Force members). The differences are:

- a dependant of a prescribed person may, for normal rate Medicare levy purposes, be treated as not being a dependant of the person in certain circumstances - this is not the case with the surcharge where a dependant maintained by a person is always treated as a dependant; and
- a prescribed person with a non-prescribed dependant is treated, for normal rate Medicare levy purposes, as being a prescribed person only for half of the particular period - with the surcharge, such a person is treated as not being a prescribed person at any time during the period and therefore potentially liable for the surcharge for the full period.

1.6 The definition of dependant in relation to prescribed persons also differs in some minor respects to the definition of dependant used for the purposes of the surcharge.

1.7 The amendments to the Act are necessary to give effect to the different scope of the surcharge and to ensure consistency between the definitions of dependant in relation to the surcharge and prescribed persons. The Bill also makes some other minor technical changes.

Explanation of the amendments

1.8 The first principal change is contained in **new section 251V**. It is concerned with prescribed persons who, under existing Medicare levy provisions, have a child or children who are not treated as dependants for the purposes of those provisions. Certain existing Medicare levy provisions operate only in respect of prescribed persons to impose half levy where they have a dependant who is entitled to benefits under Australia's health system. However, where a dependant pays the levy in his/her own right or another person pays levy on behalf of a specific dependant, that dependant is not treated as a dependant of the prescribed person for levy purposes. The result is that the prescribed person remains

fully exempt from the Medicare levy when, otherwise, he/she would have been liable for half levy.

1.9 A further provision qualifies the definition of a dependant in relation to a prescribed person to exclude a full-time student between 16 and 25 years of age where the student earns more than \$1,785.

1.10 The provisions deeming a dependant not to be a dependant for existing Medicare levy purposes are subsections 251R(4), (5), (6B), (6C) and (6D). **New section 251V** operates to provide that where one of those subsections would otherwise have deemed a person not to be a dependant (**new subsection 251V(1)**) then, for the purposes of the surcharge only, the subsection does not apply (**new subsection 251V(2)**). [*Item 4 of Schedule 1*]

1.11 **New section 251V** is necessary to place prescribed persons on the same footing as taxpayers generally in relation to liability to the surcharge. Subject to high and low income threshold tests, the surcharge is imposed on any taxpayer who benefits under Australia's health system and who does not have private patient health insurance coverage for himself/herself and for **all** his/her dependants.

1.12 The second principal change is contained in **new section 251VA**. This new section applies only where a person who, under subsection 251U(3), is a prescribed person for one-half of a period because he/she has a dependant who is not also a prescribed person. Subsection 251U(3) exists to impose effectively half Medicare levy on a person, who otherwise is exempt from the levy, where the person has a dependant who benefits under Australia's health system.

1.13 **New section 251VA** operates to provide that, for surcharge purposes, a person to whom subsection 251U(3) applies is deemed not to be a prescribed person for the whole period rather than the half period as presently provided by subsection 251U(3). This is necessary to ensure that the surcharge applies to all persons, including prescribed persons, for the full time that they have dependants who are not covered by private health insurance. **New subsection 251VA(1)** applies to a person only where subsection 251U(3) also applies to the person or would apply where another person is deemed to be a dependant. It makes it clear that the new section applies in situations where subsection 251U(3) applies directly in relation to a dependant and where, indirectly, it would have applied because under **new section 251V** a person is taken to be a dependant and this would have resulted in the person being a prescribed person for only half the period under subsection 251U(3). [*Item 4 of Schedule 1*]

Technical amendments

1.14 The new surcharge is not to be payable under the provisional tax system. It is to be payable on assessment (although provision is to be

made for an employee taxpayer to be able to choose to provide for a surcharge liability through the tax instalment deduction system). Paragraph 221YCAA(2)(c) concerns the calculation of provisional tax and is amended to ensure that the surcharge is not taken into account in that calculation. *[Item 1 of Schedule 1]*

1.15 Existing subsection 251S(1A) concerns Medicare levy and eligible termination payments and refers to section 159SB. Section 159SB was replaced by section 159SA with effect from 1 July 1994, but the reference was not changed at the time. The opportunity has been taken to make the change. *[Item 2 of Schedule 1]*

1.16 Section 251T provides for certain persons to be exempt from liability for the Medicare levy. A reference to **new sections 8B, 8C, 8D, 8E, 8F and 8G** has been inserted in section 251T to ensure that the exemption provided there applies only in relation to normal rate Medicare levy and not the surcharge which is imposed on a different basis. *[Item 3 of Schedule 1]*

Private health insurance incentives tax offset (rebate)

Overview

2.1 The amendments contained in *Schedule 2* of the Bill will insert a new subdivision in the proposed *Income Tax Assessment Act 1996* (the 1996 Act) to provide a tax rebate (tax offset in the 1996 Act) for persons who take out private health insurance.

Summary of the amendments

Purpose of the amendments

2.2 The proposed legislation will provide for a tax offset as an incentive for persons to take out or maintain private health insurance. The incentive will be available to a single individual with a taxable income up to \$35,000 and to a couple or a family with a combined taxable income up to \$70,000 (plus \$3,000 for each dependent child after the first).

Date of effect

2.3 The offset will be available in the 1997-98 and subsequent income years' assessments. *[subclause 2(4) and item 10 of Schedule 2]*

Background to the legislation

General

2.4 The Bill is complementary to the Private Health Insurance Incentives Bill 1996 (the Health Bill) which provides benefits in the form of reduced premiums to persons taking out private health insurance. The two Bills provide an income-tested financial incentive to families and individuals to take out and maintain health insurance cover. The incentive will be available to a single individual with taxable income up to \$35,000 and to a couple or a family with combined taxable income up to \$70,000.

2.5 Where the family includes more than one child, the income-test threshold will increase by \$3,000 for each additional dependent child. For example, where there are three dependent children in the family the income test-threshold will be \$76,000.

2.6 There will be a choice of taking the incentive through a health insurance fund in the form of reduced premiums or as an income tax offset claimable at the end of the income year. It will also be possible to choose to move within the year from reduced premiums to tax offset or vice versa in that it is possible for an otherwise entitled taxpayer to claim the offset in respect of premiums that have not been reduced under the Health Bill. That is, a taxpayer may claim a 'top-up' offset where the taxpayer did not claim reduced premiums for the entire period they were entitled.

2.7 The amount of incentive will depend on the type of insurance policy as is demonstrated in the following table:

	Hospital only	Ancillary only	Hospital and ancillary
Individual	\$100	\$25	\$125
Couple	\$200	\$50	\$250
Family	\$350	\$100	\$450

2.8 The Income Tax Assessment Bill 1996 is currently before Parliament and is proposed to apply in respect of assessments for the 1997-98 and subsequent income years.

Explanation of the Amendments

2.9 The amendments which relate to entitlement to the private health insurance tax offset, the amount of the offset and priority between different taxpayers are inserted in the 1996 Act as the offset will be first available in the 1997-98 income tax assessment. Some amendments are required to be made to the *Income Tax Assessment Act 1936* (the 1936 Act) in relation to provisions which are not proposed to be included in the 1996 Act.

2.10 The offset is designed to mirror as closely as possible the premium reduction scheme in the Health Bill. Hence the entitlement to the offset is largely determined by reference to entitlement to private health insurance premium reductions under the Health Bill. It is therefore

necessary to outline the factors under the Health Bill which determine entitlement to the premium reduction before outlining the amendments to the 1996 Act.

Entitlement under the Health Bill to the premium reduction

2.11 Under the Health Bill a person, other than a dependent child, who is covered by an appropriate private health insurance policy and satisfies the income test is eligible for the premium reduction. If the policy only covers dependent children, any parent of any of those children may be eligible. **[section 4-2 of the Health Bill]** See 2.25 for the definition of a parent and see 2.26 for the definition of a dependent child.

Appropriate private health insurance cover

2.12 Appropriate private health insurance cover under the Health Bill exists if the policy provides hospital cover, or ancillary cover, or both. The policy provides hospital cover if it is an 'applicable benefits arrangement' within the meaning of section 5A of the *National Health Act 1953* and the annual premium is:

- \$250 or more if the policy covers only one person; or
- \$500 or more if the policy covers more than one person; or
- such other amounts as the Minister holding the Health portfolio determines. **[section 3-2 of the Health Bill]**

2.13 Under paragraph 5A(1)(a) of the *National Health Act 1953* an arrangement is an 'applicable benefits arrangement' if the contributor is covered for liability to pay fees and charges in respect of some or all hospital treatment provided by a hospital or a day hospital facility with which the organisation has a purchaser-provider agreement.

2.14 The policy provides ancillary cover if the persons it covers are wholly or partly covered for liability to pay fees and charges in respect of ancillary health benefits (treatment provided by a medical professional in a hospital) within the meaning of section 67 of the *National Health Act 1953* and the annual premium is:

- \$125 or more if the policy covers only one person; or
- \$250 or more if the policy covers more than one person; or
- such other amounts as the Minister holding the Health portfolio determines. **[section 3-2 of the Health Bill]**.

Income tests

2.15 There are two income tests in the Health Bill, one for where the policy covers only one person and the other for policies which cover more than one person.

Income test - policy covers only one person

2.16 Where the policy covers only one person who is not a dependent child and that person is not a partner of another person that person is eligible for a premium reduction in a financial year if his/her taxable income does not exceed \$35,000 for that financial year. ***[section 3-3 of the Health Bill]***

2.17 Where the policy covers only one person who is not a dependent child and that person has a partner, the taxable incomes of that person and his/her partner are taken into account. If the total of those taxable incomes does not exceed \$70,000 for the financial year the income test will be satisfied. ***[section 3-3 of the Health Bill]***

2.18 Where the only person covered by the policy is a dependent child the taxable incomes of a parent of that child and the partner of such a parent are taken into account only if the parent, or the partner of the parent, made at least one payment of premiums in respect of that policy, or arranged for someone else to make such payments. If the total of those taxable incomes does not exceed \$70,000 for the financial year the income test will be satisfied. ***[section 3-3 of the Health Bill]***

Income test - policy covers more than one person

2.19 Where the policy covers more than one person, but does not cover any dependent children, for example if it covers a couple only, the income test will be satisfied if the total of the taxable incomes included in the income test does not exceed \$70,000. Where the policy covers more than one person and one of the persons it covers is a dependent child the income test will be satisfied if the total of the taxable incomes included in the income test does not exceed \$70,000. Where the policy covers more than one dependent child the income test will be satisfied if the total of the taxable incomes included in the income test does not exceed \$70,000 plus \$3,000 for each additional child after the first. ***[section 3-4 of the Health Bill]***

2.20 Where the policy covers dependent children and persons who are not dependent children the income test includes the taxable incomes of:

- the persons covered by the policy who are not dependent children; and

any partner of such a person. ***[section 3-4 of the Health Bill]***

2.21 Where the policy covers dependent children only the income test includes the taxable incomes of:

- each parent of a dependent child covered by the policy who has paid, or arranged with a third party for them to pay, premiums in respect of the policy (or if the parent has not done either, their partner has); and
- any partner of such a person who has paid, or arranged with a third party for them to pay, premiums in respect of the policy (or if the partner has not done either, their partner - the parent - has). *[section 3-4 of the Health Bill]*

2.22 For example; John and Janet are in a *de facto* relationship. They have two children. They have a private health insurance policy providing hospital cover for them and their two children. As John and Janet are in a *de facto* relationship their taxable incomes would be added together to determine if they are below the threshold. The income test threshold is \$70,000 for one child plus \$3,000 for each additional child. As there are two children the income test threshold is \$73,000. If the total of John's and Janet's taxable incomes does not exceed \$73,000 the income test will be satisfied.

2.23 For the purposes of the income tests in section 3-3 and 3-4 of the Health Bill, taxable income includes any share in the net income attributable to the relevant income year of a trust estate to which the person is presently entitled as a beneficiary and for which the trustee is liable to be assessed under section 98 of the 1936 Act. *[section 3-5 of the Health Bill]*

Annual incentive amount

2.24 Under section 5-1 of the Health Bill the annual premium for an income year for a private health insurance policy can be reduced by an annual incentive amount if a person is entitled under the Health Bill to have that premium reduced. The annual incentive amount in relation to an income year is the amount set out in the table at subsection 5-3(1) *[paragraph 5-3(1)(a)]*, or another amount as determined in writing by the Minister holding the Health portfolio *[paragraph 5-3(1)(b)]*. The amounts set out in the table at subsection 5-3(1) are:

	Hospital only	Ancillary only	Hospital and ancillary
Individual	\$100	\$25	\$125
Couple	\$200	\$50	\$250
Family	\$350	\$100	\$450

Family is used here for the situation where a policy covers three or more people and the situation where a policy covers at least one dependent child and one other person.

Parent

2.25 The Health Bill defines a parent as anyone who has the right to have daily care and control of the child and the right to make decisions about that daily care and control. However, if the dependent child is a full-time student over 18 years old, a parent is defined as anyone who is responsible, alone or jointly, for the maintenance and support of the student. *[Schedule 1 to the Health Bill]*

Dependent child

2.26 Dependent child in relation to a private health insurance policy is defined in the Health Bill as someone covered by the policy whom the relevant health fund accepts as a dependent child. However, dependent child does not include full-time students who are 25 years old or older, persons 18 years old or older who are not full-time students, or a person who is a partner of another person. *[Schedule 1 to the Health Bill]*

Partner of a person

2.27 The Health Bill provides that a person is a partner of another person if:

- they are legally married and are not living separately and apart on a permanent basis; or
- although not married, they live together on a *bona fide* domestic basis as husband and wife. *[Schedule 1 to the Health Bill]*

2.28 In deciding whether they could be eligible for a tax offset taxpayers will have to decide if they have a partner and hence whether someone else's income has to be included in the income tests.

Amendments to the 1996 Act

New part

2.29 Item 8 of Schedule 2 inserts *new Part 2.20* which comprises *new sections 61-300 to 61-320*. These sections are about determining entitlement to the offset, the amount of the offset, the priority for receiving the offset between different taxpayers and priority agreements *[new section 61-300]*.

Entitlement to the tax offset

2.30 Generally, if a taxpayer would be eligible under the Health Bill for a reduction in the premiums payable for a private health insurance policy, the taxpayer is eligible for a private health insurance tax offset *[Item 8, Schedule 2, new paragraph 61-305(1)(a)]*.

2.31 If a taxpayer's taxable income was taken into account in determining another person's eligibility under the Health Bill for a reduction in the premiums payable for that other person's policy the taxpayer is entitled to an offset *[Item 8, Schedule 2, new paragraph 61-305(1)(b)]*. For example; if;

- the policy covers only one person who is not a dependent child; and
- that person has a partner; and
- the total of their taxable incomes does not exceed \$70,000 for the income year; and
- no reduction in premiums was claimed,

the partner of the person covered by the policy would also be entitled to claim an offset.

2.32 Trustees who are liable to be assessed under section 98 of the 1936 Act in respect of a share of a trust estate are entitled to the offset if the beneficiary who is presently entitled to that share of the trust estate would be eligible for the offset if his/her taxable income was limited to that share *[Item 8, Schedule 2, new subsection 61-305(2)]*. Section 98 of the 1936 Act provides for the assessment of trust income where the presently entitled beneficiary of that income is under a legal disability.

2.33 However a taxpayer is not entitled to an offset for the premiums if:

- those premiums were reduced under the Health Bill *[Item 8, Schedule 2, new paragraph 61-305(3)(a)]*; or
- another person's entitlement to the offset has priority under *new section 61-315* - see 2.41 to 2.48 *[Item 8, Schedule 2, new paragraph 61-305(3)(b)]*; or
- in respect of a policy which only covers dependent children, the premiums relate to that part of the year after which a child covered by the policy ceases to be a dependent child *[new paragraph 61-305(3)(c)]*; or

in respect of a policy which only covers dependent children, the taxpayer's taxable income was not taken into account in applying the income test in the Health Bill - see 2.18 [*new paragraph 61-305(3)(d)*].

Amount of offset

2.34 As the offset is designed to mirror as closely as possible the premium reduction scheme in the Health Bill the amount of the offset will, in most circumstances, be equal to the amount of the premium reduction that an eligible person would have been entitled to in respect of that policy.

Full year private health insurance cover

2.35 If the taxpayer is entitled to an offset for premiums covering the whole of the income year the amount of the offset will be the annual incentive amount under section 5-3 of the Health Bill (see 2.24) applicable to the circumstances [*Item 8, Schedule 2, new paragraph 61-310(1)(a)*].

Part year private health insurance cover

2.36 If the taxpayer is entitled to an offset for premiums which cover only part of a year the amount of the offset is calculated on a pro rata basis. The amount of offset is calculated using the formula in *new paragraph 61-310(1)(b)*. The result of the formula is that the full year offset amount applicable to the circumstances is apportioned according to the amount of the year the premiums cover.

More than one taxpayer entitled

2.37 Where a taxpayer is one of a number of persons entitled to an offset who have made payments towards the premiums the taxpayer is entitled to a portion of the offset which reflects the amount of premium he/she paid compared to the total premium for that policy. This is calculated using the formula in *new subsection 61-310(3)*. The result of the formula is that the total offset amount is apportioned according to the proportion of the total premiums paid by the taxpayer.

2.38 It should be noted that the priority rules discussed below (see 2.41 - 2.48) may mean that only one person is entitled in cases where two or more people would otherwise be entitled.

Joint premium payments

2.39 For the purposes of calculating the amount paid towards the premiums by each taxpayer, joint payments are equally attributed to those people making the payment. That is, if two or more people make a joint payment towards premiums, each person is deemed to have made a separate payment of an amount equal to the total amount of that payment

divided by the number of people making that payment. **[Item 8, Schedule 2, new subsection 61-310(4)]**

An unentitled person contributes to the premiums

2.40 If a person who made payments towards the premiums is not entitled to an offset (for example, where the premiums are paid by an employer on behalf of an employee) the amount of the payments made is deemed to have been made by those people entitled to an offset. The amount of those payments is evenly divided between those people who are entitled to an offset. **[Item 8, Schedule 2, new subsection 61-310(5)]**

Priority between different taxpayers

2.41 As there may be more than one person who is entitled to an offset it is necessary for there to be a method for deciding which taxpayers receive the offset. **New section 61-315** establishes the priority of entitlements where more than one person is otherwise entitled. The Note to **new subsection 61-315(1)** points out that the significance of priority is provided for in **paragraph 61-305(3)(b)**. **New paragraph 61-305(3)(b)** provides that a person is not entitled to an offset in relation to premiums if another person has priority under **section 61-315** in relation to the same premiums. (See 2.33.)

Where there is an agreement

2.42 The persons entitled to an offset may make a written 'priority agreement' as to which person or persons is to have priority in a year of income. The term 'priority agreement' is defined by a new definition inserted into **subsection 995-1(1)** of the 1996 Act by Item 9 of Schedule 2. This definition provides that 'priority agreement' has the meaning given by **new subsection 61-315(2)**. That agreement will determine priority of entitlements for that year **[Item 8, Schedule 2, new subsections 61-315(2) and (3)]**. That agreement must cover every person who would be entitled to the offset. The agreement must be made before any of the persons covered by the agreement lodges a tax return for the year the agreement relates to **[Item 8, Schedule 2, new paragraph 61-320(1)(a)]**, or such later day as the Commissioner allows **[new paragraph 61-320(1)(b)]**

2.43 Agreements must be kept for five years from the time they are made. Failure to keep an agreement will mean the persons will be treated as if no agreement had been made **[Item 8, Schedule 2, new subsection 61-320(2)]**. Where an agreement is lost or destroyed a copy of the agreement will suffice if the Commissioner of Taxation is satisfied that the copy properly records all the matters set out in the agreement and was in existence at the time the agreement was lost or destroyed **[Item 8, Schedule 2, new subsection 61-320(3)]**. Alternatively, if there is no adequate copy of the agreement and the Commissioner is satisfied the agreement was lost or destroyed in circumstances beyond the control of

the relevant people, the people will be treated as having made the agreement [*Item 8, Schedule 2, new subsection 61-320(4)*].

Where there is no agreement and those otherwise entitled made payments towards the premiums

2.44 If there is no agreement for a year of income the entitlement of a person who has made payments towards the premiums has priority over the entitlement of a person who has not made payments towards the premiums [*Item 8, Schedule 2, new subsection 61-315(4)*].

Where there is no agreement and those otherwise entitled did not make payments towards the premiums

2.45 If there is no agreement and the persons otherwise entitled to the offset did not make payments towards the premiums the entitlement of the contributor has priority [*Item 8, Schedule 2, new subsection 61-315(5)*]. The contributor is defined as the person whom the relevant health fund treats as a contributor [*Item 8, Schedule 2, new subsection 61-315(6)*]. This is generally the first person named on the policy.

2.46 In the case where the contributor is not entitled to the tax offset, for example, because the contributor is a dependent child, the rules in *new subsection 61-310(5)* (see 2.40) will apply to determine who gets the offset.

2.47 For example; Don and Rhian have one child, Hugo. Hugo is their dependent child. Hugo is treated as the contributor by the health fund. Don and Rhian have made no payments towards that health insurance policy, the premiums being paid by Don's employer. As Hugo is a dependent child he is not entitled to the offset. *New subsection 61-310(5)* operates to deem each of Don and Rhian as having paid an amount equal to half the total amount of the premiums. Under *new subsection 61-310(3)* they will each be entitled to half of the tax offset.

Priority of section 98 trustees and beneficiaries

2.48 The entitlement to the offset of either the trustee or the beneficiary of section 98 trusts (see 2.32) is not affected by the other having priority under *new section 61-315 [new subsection 61-315(7)]*. This is because any offset included in the trustee's tax assessment in relation to the beneficiary's share of the trust income is taken into account in the tax assessment of the beneficiary.

List of tax offsets

2.49 **Item 7 of Schedule 2** adds a reference to private health insurance to the list of tax offsets in section 13-1 of the 1996 Act.

Amendments to the 1936 Act

Information exchange

2.50 **Item 1 of Schedule 2** inserts *new paragraph 16(4)(fb)*. This allows the Commissioner, a Second Commissioner, a Deputy Commissioner or an authorised officer to disclose information to the Health Insurance Commission they are otherwise required to keep secret under subsection 16(2). The disclosure of this information has to be for the purpose of the administration of the Health Bill.

2.51 **Item 6 of Schedule 2** inserts *new section 264B*. This new section is inserted to assist the Commissioner of Taxation in ensuring taxpayer compliance with the new tax offset. Under this new section the Commissioner can ensure that taxpayers claiming the offset in fact hold private health insurance and can determine what type of insurance is held. Without the ability to easily data match using health fund data, the cost to the community of ensuring compliance would be greatly increased and may make such compliance action uneconomic.

2.52 Other than the taxpayer, health funds are the only source of information concerning private health insurance. *New section 264B* authorises the Commissioner to require health funds to supply within the specified time the following data in any form, including an electronic form, approved by the Commissioner:

- contributor's name, address and birthdate;
- name, address and birthdate of each person covered by a policy;
- name, address and birthdate of any partner of a person covered by the policy;
- fund membership number of the policy;
- type of membership: single, couple or family;
- whether the policy covers dependent children;
- level of cover: hospital, ancillary or both;
- the name, address and birthdate of the payer;
- the date the policy was issued
- the date, if any, on which the policy ends; and
- amount of incentive payments received, if any, under the Health Bill.

2.53 *New subsection 264B(4)* provides that for *new section 264B* the meanings of ancillary cover, dependent child, health fund, hospital cover, partner of a person, and private health insurance policy are the same as in the Health Bill.

2.54 At first it is not expected that data concerning persons who have private health insurance will be sought from all health funds. Rather, it is expected that the Commissioner will adopt a sampling approach as a means of assessing the degree of taxpayer compliance. The need for more comprehensive collection of data from funds will depend on the outcome of the initial risk assessment.

Assessable income

2.55 In order to include in the assessable income of a health fund amounts paid to it by the Health Insurance Commission under section 8-3 of the Health Bill, **item 4 of Schedule 2** inserts *new paragraph 26(m)*. In order to accommodate this new paragraph, **items 2 and 3 of Schedule 2** make punctuation and grammatical changes to paragraphs 26(b) and 26(e) to (jb) respectively.

Provisional tax

2.56 As the offset is to be available on assessment only, it will not be taken into account when calculating provisional tax. This is made clear in **item 5 of Schedule 2**. Item 5 inserts *new subsection 221YCAA(2A)* which provides that the private health insurance offset is not to be taken as a rebate for the purposes of the definition of 'qualifying reductions' in relation to calculating the uplifted provisional tax amount under section 221YCAA. Taxpayers desiring a periodic benefit from the incentive scheme can apply for a premium reduction.

Variation of deductions

2.57 As the offset is to be available on assessment only, the Commissioner will not be accepting variations under section 221D of the 1936 Act in respect of the offset in relation to tax instalment deductions made under the pay as you earn system.

