

1983-84

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

INCOME TAX (RATES) AMENDMENT BILL 1984

INCOME TAX (INDIVIDUALS) BILL 1984

INCOME TAX (COMPANIES, CORPORATE UNIT TRUSTS AND
SUPERANNUATION FUNDS) BILL 1984

MEDICARE LEVY BILL 1984

EXPLANATORY MEMORANDUM

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

General Outline

Income Tax (Rates) Amendment Bill 1984

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

- . declare the rates of tax payable by individuals and trustees generally for the 1984-85 financial year and for the 1985-86 and subsequent financial years and, in so doing, give effect to the Budget proposal to alter the personal income tax rate scale, with effect from 1 November 1984, to introduce a five step rate scale incorporating:
 - a 25 per cent rate in the income range \$4,596 to \$12,500;
 - a 48 per cent rate in the income range \$28,001 to \$35,000; and
 - a reduction in the bottom of the 60 per cent rate step to \$35,001;
- . ensure that the rates of tax declared by that Act for individuals and trustees generally for the 1983-84 and subsequent financial years will apply for the 1983-84 year only.

Income Tax (Individuals) Bill 1984

This Bill will:

- . formally impose tax payable for the 1984-85 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 Tax (Rates) Amendment Bill 1984; and
- . formally impose provisional tax for the 1984-85 year of income.

Income Tax (Companies, Corporate Unit Trusts and Superannuation Funds) Bill 1984

This Bill will declare and impose the rates of tax payable for 1984-85 by companies and registered organizations, by trustees of corporate unit trusts,

superannuation funds and ineligible approved deposit funds, and by trustees in respect of trust income of non-resident company beneficiaries of trust estates.

Medicare Levy Bill 1984

This Bill will:

- . declare and impose the basic rate of levy of 1 per cent for 1984-85 and, until the Parliament otherwise provides, for 1985-86;
- . exempt from levy individuals with taxable incomes of \$7,110 or less and families and sole parents with family incomes of \$11,803 or less; the family or sole parent threshold to be raised by a further \$1,330 for each dependent child or student;
- . place a maximum of \$750 (\$733.32 in 1984-85) on the annual amount of levy that is payable by an individual or a married couple; and
- . reduce the levy otherwise payable by veterans, war widows, Defence Force personnel, holders of on a non-income tested basis pensioner health benefits cards, health benefits cards and health care cards, and other "prescribed persons" who are exempt from the levy for part of a year, or who are required to pay levy because they have dependants eligible for Medicare benefits.

Financial Impact

The estimated revenue effects in 1984-85 and in a full year of the above measures as announced in the Budget and contained in these Bills are as follows:

	1984-85 \$m	Full-year \$m
Changes to personal income tax rate scale	-1,297	-2,125
Changes to Medicare levy arrangements	-8	-12

Main features

The main features of the Bills are described below:

Income Tax (Rates) Amendment Bill 1984

This Bill will amend the Income Tax (Rates) Act 1982 to declare the rates of tax payable for 1984-85 and for 1985-86 and subsequent financial years by individuals and trustees generally. In so doing, the Bill will give effect to the Budget proposal to alter the personal income tax rate scale, with effect from 1 November 1984, to introduce a five step rate scale. From that date, the general rates of tax for resident taxpayers will be:

For Parts of Taxable Income

<u>Exceeding</u>	<u>But Not</u>	<u>Rate</u>
\$	\$	%
0	4,595	NIL
4,595	12,500	25
12,500	19,500	30
19,500	28,000	46
28,000	35,000	48
35,000	-	60

The new reduced rate of 25 per cent is not to apply to non-resident individuals (including trustees assessed on their behalf) - other than those who were residents for any part of a year of income or who are in receipt of Australian social security or repatriation pensions that are subject to Australian tax - nor to the income of minors to which Division 6AA of the Income Tax Assessment Act 1936 applies.

An average rate scale for 1984-85 is provided for - the average being that of the scale applicable up to 31 October and that to apply from 1 November 1984.

As a consequence of the above changes, the Bill will ensure that the rates of tax presently declared by the Income Tax (Rates) Act 1982 for 1983-84 and subsequent financial years are to have no application beyond the 1983-84 year.

The Bill will also provide that the Income Tax (Rates) Act 1982 is not to apply to a trustee of an ineligible approved deposit fund - the rate of tax payable by such a trustee is to be declared and imposed by the Income Tax (Companies, Corporate Unit Trusts and Superannuation Funds) Bill 1984.

Income Tax (Individuals) Bill 1984

The rates of tax payable for 1984-85 and, until the Parliament otherwise provides, for 1985-86 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 1984, will be formally imposed by this Bill. It will also formally impose provisional tax for 1984-85.

Income Tax (Companies, Corporate Unit Trusts and Superannuation Funds) Bill 1984

The rates of tax payable for 1984-85 by companies, by registered organizations, by trustees of corporate unit trusts, ineligible approved deposit funds and superannuation funds, and by trustees in respect of trust income of non-resident company beneficiaries, will be declared and imposed by this Bill.

The rates are generally the same as those for 1983-84, but the Bill also reflects the following measures:

- . the imposition of a rate of tax of 20 per cent on the taxable income of registered organizations as defined in Division 8A of Part III of the Income Tax Assessment Act 1936;
- . the imposition of a rate of tax of 46 per cent on the taxable income of superannuation funds to which section 121DAB of the Income Tax Assessment Act 1936 applies; and
- . the reduction, from 46 per cent to 30 per cent, in the rate of tax payable on the taxable income of superannuation funds which do not comply with the 30/20 rule.

Medicare Levy Bill 1984

The Medicare levy will, by this Bill, be payable on taxable incomes for 1984-85 and, until the Parliament otherwise provides, for 1985-86. Main features of the levy arrangements contained in the Bill are :

- . the basic rate of levy will be 1 per cent of the taxable income of the individual or trustee (clause 6);

- . the maximum amount of levy payable by any person or married (including a de facto married) couple will be \$733.32 for 1984-85 and \$750 for the subsequent year (clauses 8 and 12);
- . no levy will be payable by:
 - a person whose taxable income does not exceed \$7,110 (clause 7); or
 - a married (including de facto) couple where the sum of the couple's taxable incomes does not exceed \$11,803 or by a sole parent where his or her taxable income does not exceed \$11,803. For each dependent child or student maintained by a married couple or sole parent, the threshold for payment of the levy is to be increased by \$1,330 (clause 9);
- . relief from levy will also be provided for:
 - veterans, war widows, Defence Force personnel, holders on a non-income tested basis of pensioner health benefits cards, health benefits cards and health care cards, and other "prescribed persons" under existing provisions of Part VIIB of the Income Tax Assessment Act 1936, who are exempt from the levy for part of a year, or who are required to pay levy because they have dependants eligible for Medicare benefits (clause 10).

The provisions of Part VIIB of the Income Tax Assessment Act 1936 concerning, amongst other things, liability to the levy, exemptions for certain trustees and prescribed persons and the definition of prescribed persons, remain unchanged.

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

INCOME TAX (RATES) AMENDMENT BILL 1984

This Bill will amend 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 (other than trustees in respect of whom the relevant rates of tax are to be declared and imposed by the accompanying Income Tax (Companies, Corporate Unit Trusts and Superannuation Funds) Bill 1984) to declare the rates of tax payable by these taxpayers for

the 1984-85 financial year and the 1985-86 and subsequent financial years. The rates of tax presently declared by the Principal Act for the 1983-84 and subsequent financial years will thus have no application beyond the 1983-84 year.

The amendments proposed by this Bill provide for the introduction, with effect from 1 November 1984, of a five step rate scale incorporating a 25 per cent rate in the income range \$4,596 to \$12,500, a 48 per cent rate in the income range \$28,001 to \$35,000, and a reduction in the bottom of the 60 per cent rate step to \$35,001. These amendments are contained in two new Parts - Part IV and Part V - to be inserted in the Principal Act by this Bill. Part IV declares the rates of tax payable for the 1984-85 financial year and Part V declares those payable for the 1985-86 and subsequent financial years. Parts IV and V each have four Divisions.

In each case Division 1 formally provides that the rates declared by the Part apply for the financial year referred to in that Part. Division 2 declares the rates of tax and notional rates ordinarily payable for the relevant financial year, while Divisions 3 and 4, dealing with residents and non-residents respectively, declare the rates of tax payable where Division 6AA of the Income Tax Assessment Act 1936 (the "Assessment Act") applies to certain income of minor children. The rates of tax payable in the various circumstances are set out in the Schedules to the Bill.

The rates of tax declared for a financial year are imposed and levied for that year by a separate Act. The accompanying Income Tax (Individuals) Bill 1984 will impose tax, at the rates declared in the Principal Act, by virtue of the amendments proposed by this Bill, for the 1984-85 financial year and, until the Parliament otherwise provides, for the 1985-86 financial year.

Notes on the clauses of the Bill are set out below.

Clause 1 : Short title, etc.

By sub-clause (1) of this clause the amending Act is to be cited as the Income Tax (Rates) Amendment Act 1984.

Sub-clause (2) facilitates references to the Income Tax (Rates) Act 1982, which, in the Bill, is referred to as the "Principal Act".

Clause 2 : Commencement

By this clause it is proposed that the amending Act will come into operation on the day on which it receives the Royal Assent. But for this clause, the amending Act, by reason of sub-section 5(1A) of the Acts Interpretation Act 1901, would not come into operation until the twenty-eighth day after the date of Assent.

Clause 3 : Title

This clause proposes a formal amendment to the title of the Principal Act to reflect the exclusion from its scope of certain trustees in respect of whom, as indicated in the introductory notes on this Bill, the relevant rates of tax are to be declared and imposed by the accompanying Income Tax (Companies, Corporate Unit Trusts and Superannuation Funds) Bill 1984.

Clause 4 : Interpretation

This clause proposes the insertion of a new paragraph - paragraph (ca) - in the definition of "tax" in sub-section 3(1) of the Principal Act. The new paragraph will effectively exclude from the scope of the Principal Act a trustee of an "ineligible approved deposit fund" who is liable to be assessed under section 121DAA of the Assessment Act - that is, an approved deposit fund which fails to meet the requirements for tax exemption set out in Section 23FA of the Assessment Act but which, on the last day of the year of income has an "approved trustee" within the definition of that term in Section 27A of the Assessment Act. The rate of tax payable by a trustee in these circumstances will be declared and imposed by the accompanying Income Tax (Companies, Corporate Unit Trusts and Superannuation Funds) Bill 1984.

Clause 5 : Heading to Part IIIClause 6 : Application of Part III

Part III of the Principal Act declares the rates of tax payable for the 1983-84 and subsequent financial years. As the amendments proposed by clause 7 of this Bill will declare the rates payable for 1984-85, and those for 1985-86 and subsequent financial years, Part III of the Principal Act is to be amended so that it will have no further application in relation to income of financial years subsequent to the 1983-84 year. To this end, the amendments proposed by Clauses 5 and 6 of this Bill formally delete references in Part III of the Principal Act to years subsequent to the 1983-84 year.

Clause 7 : Insertion of Parts

Clause 7 proposes to insert two new Parts - Part IV and Part V - in the Principal Act. As indicated in the introductory notes, Part IV declares the rates of tax payable for the 1984-85 financial year, and Part V declares those payable for the 1985-86 and subsequent financial years.

PART IV - FINANCIAL YEAR COMMENCING ON 1 JULY 1984

Part IV, comprising four Divisions and new sections 17 to 21, in conjunction with Schedules 13 to 18 which are to be inserted in the Principal Act by clause 14 of this Bill, will formally declare the rates of tax payable for the 1984-85 financial year.

Division 1Section 17 : Application of Part

Proposed section 17 will state formally that the rates of tax declared by Part IV are to apply for the financial year commencing on 1 July 1984.

Division 2Section 18 : Rates of tax and notional rates

The ordinary rates of tax payable for the 1984-85 financial year by individuals and trustees generally, and the notional rates for purposes of the primary producer averaging provisions are declared by proposed section 18. The relevant rates so declared are set out in Part I of each of Schedules 13 to 16, as they are to apply in respect of resident taxpayers, resident beneficiaries and resident trust estates, and in Part II of each of those Schedules as they are to apply in respect of non-resident taxpayers, non-resident beneficiaries and non-resident trust estates.

The 1984-85 general rates of tax for individuals are declared by new sub-section 18(1) and are set out in Schedule 13 - Part I for residents and Part II for non-residents. The 1984-85 rates for resident taxpayers reflect the reduced 25 per cent rate for incomes in the range \$4,596 to \$12,500; the introduction of a 48 per cent rate in the range \$28,001 to \$35,000, and the maximum marginal rate of 60 per cent commencing at \$35,001, with effect from 1 November 1984. The rate scale set out in

Part 1 of Schedule 13 is, in effect, an average of the 1983-84 rate scale applicable up to 31 October 1984 (as to four-twelfths) and of the new scale to apply from 1 November 1984 (as to eight-twelfths).

The general rates of tax for resident taxpayers for 1984-85 are as follows:

For Parts of Taxable Income

<u>Exceeding</u>	<u>But Not</u>	<u>Reduced</u>	<u>Standard</u>	<u>Surcharge</u>	<u>Total</u>
\$	<u>Exceeding</u>	<u>Rate</u>	<u>Rate</u>	%	%
	\$	%	%		
0	4,595	NIL	NIL	NIL	NIL
4,595	12,500	26.67	NIL	NIL	26.67
12,500	19,500	NIL	30	NIL	30
19,500	28,000	NIL	30	16	46
28,000	35,000	NIL	30	17.33	47.33
35,000	35,788	NIL	30	25.33	55.33
35,788	-	NIL	30	30	60

Tax payable may be calculated from the following table:

For Parts of Taxable Income

<u>Exceeding</u>	<u>But Not</u>	<u>Tax on Total Taxable Income</u>
\$	<u>Exceeding</u>	
	\$	
0	4,595	Nil
4,595	12,500	Nil + 26.67 cents for each dollar of taxable income in excess of \$4,595
12,500	19,500	\$2,108.2635 + 30 cents for each dollar of taxable income in excess of \$12,500
19,500	28,000	\$4,208.2635 + 46 cents for each dollar of taxable income in excess of \$19,500
28,000	35,000	\$8,118.2635 + 47.33 cents for each dollar of taxable income in excess of \$28,000
35,000	35,788	\$11,431.3635 + 55.33 cents for each dollar of taxable income in excess of \$35,000
35,788	-	\$11,867.3639 + 60 cents for each dollar of taxable income in excess of \$35,788

For non-resident taxpayers the general 1984-85 rates, as set out in Part II of Schedule 13, differ in that they provide no zero rate step and the reduced rate of 26.67 per cent does not apply.

The general rates of tax for 1984-85 for non-residents are:

For Parts of Taxable Income

<u>Exceeding</u>	<u>But Not</u>	<u>Standard</u>	<u>Surcharge</u>	<u>Total</u>
\$	<u>Exceeding</u>	<u>Rate</u>	%	%
0	19,500	30	NIL	30
19,500	28,000	30	16	46
28,000	35,000	30	17.33	47.33
35,000	35,788	30	25.33	55.33
35,788	-	30	30	60

Tax payable may be calculated from the following table:

For Parts of Taxable Income

<u>Exceeding</u>	<u>But Not</u>	<u>Tax on Total Taxable Income</u>
\$	<u>Exceeding</u>	
0	19,500	30 cents for each dollar of taxable income
19,500	28,000	\$5,850.00 + 46 cents for each dollar of taxable income in excess of \$19,500
28,000	35,000	\$9,760.00 + 47.33 cents for each dollar of taxable income in excess of \$28,000
35,000	35,788	\$13,073.10 + 55.33 cents for each dollar of taxable income in excess of \$35,000
35,788	-	\$13,509.10 + 60 cents for each dollar of taxable income in excess of \$35,788

New sub-sections 18(2) to 18(9) of Part IV correspond with sub-sections 13(2) to 13(7) (including sub-sections 13(2A) and 13(2B)) of the existing Part III of the Principal Act.

The averaging benefit or complementary tax under section 156 of the Assessment Act for primary producers to whom the averaging provisions of the Assessment Act apply for 1984-85 will be calculated by reference to the notional

rates declared by sub-section (2), as set out in Schedule 14 - Part I for residents and Part II for non-residents - which reflects the changes to the rate scale effected by sub-section (1) and Schedule 13.

These rates will be used to determine the averaging benefit of a primary producer whose taxable income exceeds his or her average income. Basically, averaging benefit is the difference between tax payable on the taxable income at general rates and tax payable on that income at the notional rate, that is, the rate of tax applicable to the average income.

On the other hand, where the tax payable on taxable income if average rates were applied, exceeds the tax that would be payable at ordinary rates, a complementary amount of tax is required to be paid. New sub-section (3) will set out the method of calculation of the rate of complementary tax payable by an individual taxpayer. The rate of complementary tax is to be determined by dividing the excess referred to in 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 over tax payable at ordinary rates.

New sub-section (4) 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 sub-section 156(5A) of the Assessment Act. The method of calculation is as described above in relation to individuals.

Sub-section (5) (which is subject to proposed sections 19 and 21) and Schedule 15 - Part I for residents and Part II for non-residents - will declare the 1984-85 rates of tax applicable to a taxpayer deriving a notional income as specified by section 59AB (depreciation recouped), section 86 (lease premium) or section 158D (abnormal income of authors and inventors) of the Assessment Act. In these cases the rate of tax payable will be a rate ascertained by dividing by the notional income an amount equal to the tax payable at the general rates specified in Schedule 13 on a taxable income equal to the notional income.

Sub-section (6), which is also subject to proposed sections 19 and 21, will declare the 1984-85 rates of tax (as set out in schedule 16 - Part I for residents and Part II for non-residents) payable by trustees assessed under

section 98 of the Assessment Act on behalf of a beneficiary, or assessed under section 99 on accumulating income of a trust estate.

The effect of the new rate scale applying for 1984-85 is reflected in Schedules 14 to 16 by reference to the rates of tax payable under Schedule 13.

Sub-section (7) declares the rate of further tax payable for the 1984-85 financial year in pursuance of section 94 of the Assessment Act where there is included in the taxable income of a taxpayer any amount of income to which that section applies, i.e., a share of partnership income that is or is deemed to be income over which the person does not have the real and effective control and disposal.

The sub-section will impose further tax on income to which section 94 applies at a rate equal to 50 per cent reduced by the average ordinary rate of tax applicable to the taxpayer's total taxable income. The average ordinary rate of tax is determined for this purpose as being ordinary tax payable divided by the total taxable income. It is expressly provided by the sub-section that the ordinary tax payable is to be the tax (including any averaging benefit or complementary tax) before allowance of any rebate or credit to which the taxpayer is entitled.

Sub-section (8) declares the rate of further tax payable for the 1984-85 financial year in pursuance of section 94 of the Assessment Act where the taxpayer is a trustee liable to be assessed and to pay tax under section 98 or section 99 of that Act.

Sub-section (9) declares 60 per cent as the rate of tax payable by a trustee liable to tax pursuant to section 99A for the 1984-85 financial year - the same rate as for 1983-84.

Division 3 - Resident taxpayers, resident beneficiaries and resident trust estates

Division 3 is comprised of proposed section 19 - declaring the rates of tax payable by resident taxpayers or trustees taxed on behalf of resident beneficiaries, where Division 6AA of Part III of the Assessment Act applies - and proposed section 20 which deals with the limitation on tax payable by trustees of certain resident trust estates who are liable to be assessed under section 99 of the Assessment Act.

Section 19 : Rates of tax where Division 6AA
of Part III of the Assessment Act applies

This section will declare the rates of tax that are to be payable for the 1984-85 financial year by a resident taxpayer who is a minor and whose taxable income includes income that is eligible taxable income for the purposes of Division 6AA of Part III of the Assessment Act of more than \$416. The clause will not apply if the eligible income is \$416 or less, and the general rates of tax will in that case apply to the whole of the taxable income.

The section will also declare the rates of tax that are to be payable for the 1984-85 financial year by a trustee of a trust estate who is liable to be assessed and to pay tax under section 98 of the Assessment Act on a share of the net income of a trust estate to which a resident taxpayer who is a minor is presently entitled, where Division 6AA is applicable to a part of that share or to parts of two or more such shares, if the part, or sum of the parts, is greater than \$416.

Sub-section (1) will declare the rates of tax that are to be paid for 1984-85 by a resident minor whose income includes eligible taxable income of more than \$416. The rates declared by that sub-section are set out in Part I of Schedule 17.

Clause 1 of Part 1 of Schedule 17 sets out the rates of tax that are to be payable on that part of the minor's taxable income that is not eligible taxable income. This income is referred to in the Schedule as the "relevant part" of the taxable income.

The rates of tax that, by clause 1, are to apply to the relevant part of a minor's taxable income are the same as the normal rates that would have applied to that income if it had been the minor's only income.

Clause 2 of Part 1 of Schedule 17 sets out the rates of tax that are to be paid on the eligible taxable income. The rate is 46 per cent, except where the ordinary rate payable on the income is higher. In the latter circumstances the excess over \$28,000 of the person's taxable income will be taxed at the new ordinary rates applicable to taxable income above that level.

Sub-section 19 (2) is set against the background that \$417 is the minimum amount of eligible taxable income that is to be taxed at the rates applicable to eligible income of resident minors - eligible income up to \$416 is

to be taxed in the ordinary way and, if total taxable income does not exceed \$4,595, no tax will be payable on eligible income of up to \$416. If the 46 per cent rate were to apply to eligible income of \$417, the result could be that the derivation of one additional dollar of eligible income would produce tax of almost \$200.

To avoid this result, sub-section (2) provides for "shading-in" arrangements to apply where the eligible taxable income is between \$417 - the point where such income becomes liable to be taxed at the 46 per cent rate - and \$1,372 - the point where the tax under the "shading-in" arrangements reaches the tax at the 46 per cent rate.

Sub-section (3) declares the rates of tax payable by a trustee, who is taxable under section 98 of the Assessment Act in respect of a resident beneficiary's share of the net income, if Division 6AA of Part III of the Assessment Act applies to more than \$416 of the share.

The rates payable in those circumstances are set out in Part I of Schedule 18 which is to the same broad effect as Part I of Schedule 17 which applies to eligible income derived directly by a minor.

Sub-section (4) specifies that the rates of tax set out in Part I of Schedule 18 may in defined circumstances also apply where the eligible part of the share of the net income of a trust estate in respect of which a resident minor is presently entitled does not exceed \$416. This will be the case where Division 6AA also applies to a part of the beneficiary's share of the net income of another trust estate or other trust estates and the total of all of the eligible parts exceeds \$416. Sub-section (5) is also relevant in this regard.

Sub-section (5) is set against the background that "shading-in" arrangements, to the same effect as those described in the notes on sub-section (2) in relation to the eligible income of a minor, are to apply under sub-section (6), when read with sub-section (7), where a resident beneficiary is entitled to a share of the net income of only one trust estate and division 6AA applies to an amount of that share of between \$416 and \$1,372. These arrangements cannot apply in a case where sub-section (4) applies since the eligible part in this case is \$416 or less. However, sub-section (5) will empower the Commissioner of Taxation to reduce the tax that would otherwise be payable in accordance with sub-section (4) where the sum of the eligible parts of the shares of net income of trust estates in respect of which the resident

beneficiary is presently entitled does not exceed \$1,372. Sub-section (9) sets out matters to which the Commissioner is to have regard in deciding on the amount of the reduction in the tax payable that is to be made in accordance with sub-section (5). The broad aim is to arrive at an amount of tax on the notionally aggregated trust incomes that is equivalent to the amount that would result under the "shading-in" provisions of sub-section (6) if the income were that of only one trust estate.

Sub-section (6) provides, subject to sub-section (7), "shading-in" arrangements that are to apply where the eligible part of the share of a minor resident beneficiary of the net income of a trust estate exceeds \$416 but does not exceed \$1,372. The "shading-in" arrangements correspond in effect with those applicable to eligible income of between \$417 and \$1,372 derived directly by a minor - see notes on sub-section (2).

Sub-section (7) specifies that sub-section (6) is not to apply to limit the tax payable by a trustee on the eligible part of a share of the net income of a trust estate in respect of which a resident minor is presently entitled that is between \$417 and \$1,372 if the beneficiary is also entitled to a share of income of another trust estate or other trust estates, to a part of which or of each of which Division 6AA applies. However, in circumstances where sub-section (6) is not applied because of the operation of sub-section (7), sub-section (8) empowers the Commissioner of Taxation to reduce the tax that would otherwise be payable by the trustee in accordance with sub-section (3) if the sum of the eligible parts does not exceed \$1,372. Sub-section (8) will have a corresponding effect in relation to a trustee who would otherwise be liable to pay tax under sub-section (3), as sub-section (5) is to have in relation to a trustee who would otherwise be liable to pay tax under sub-section (4).

Sub-section (9) sets out the matters to which the Commissioner is to have regard in forming an opinion, for the purposes of sub-section (5) or (8), as to the amount, if any, by which the tax that would otherwise be payable by a trustee on a share of the net income of a trust estate should be reduced. The sub-section, in effect, requires the Commissioner to notionally aggregate all of the shares of trust net income in respect of which a resident beneficiary is presently entitled, and all of the parts of those shares to which Division 6AA of Part III of the Assessment Act applies. Having done that, the Commissioner then has to determine the amount to which the tax payable by a trustee on a share of the net income of a trust estate

would have been limited under sub-section (6) if that share were equal in amount to the sum of those shares and included an eligible part equal in amount to the sum of those eligible parts. As a final step, the Commissioner has to have regard to the amount by which he has, by the application of sub-section (5) or (8), reduced the tax payable on the share or shares of the resident beneficiary of the net income of any other trust estates.

Section 20 : Limitation on tax payable
by certain trustees

This section is the counterpart of section 15 of the Principal Act. It will apply for the 1984-85 year where a trustee is assessable under section 99 of the Assessment Act in respect of the net income of a resident trust estate that is either an inter vivos trust or the estate of a person who died 3 years or more before the end of the year of income, and in respect of which the trustee is not entitled to the zero rate step. The section will limit the tax otherwise payable by the trustee in terms of sub-section 18(6) and Part I of Schedule 16.

Sub-section (1) will provide that the trustee is not to be liable to tax if the net income or the part of the net income of the resident trust estate does not exceed \$416. Sub-section (2) will apply where the net income exceeds \$416 but not \$891 (in lieu of \$1,040 in the 1983-84 year and reflecting the application of the proposed 25 per cent rate from 1 November 1984) and will limit the tax to 50 per cent of the excess over \$416.

Division 4 - Non-resident taxpayers, non-resident beneficiaries and non-resident trust estates

Division 4 applies to non-residents in much the same way as Division 3 applies to residents. It declares the 1984-85 rates of tax payable by non-resident taxpayers, and trustees assessed on their behalf, where Division 6AA of Part III of the Assessment Act applies.

Section 21 : Rates of tax where Division 6AA
of Part III of the Assessment Act applies

Proposed section 21 deals with Division 6AA cases and is similar to proposed section 19, except that there is no minimum taxable income for non-residents. For 1984-85 the rate of tax on eligible income up to \$416 is to be the standard rate of 30 per cent or tax at normal rates, whichever is greater, and subject to "shading-in"

arrangements, the rate of 46 per cent will apply to relevant income over \$416 - the existing situation. For incomes above \$28,000 the new higher rates will apply.

Sub-section (1) declares the rates for a non-resident individual minor deriving eligible income, as set out in Part II of Schedule 17.

Sub-section (2) limits the tax payable in terms of sub-section (1), where the income involved does not exceed \$416 and where it does exceed \$416 but not \$748. Paragraph (a) limits the tax payable on eligible income not exceeding \$416 to 30 per cent or tax on that income, when aggregated with other income, at ordinary rates, whichever is the greater. Paragraph (b) provides "shading-in" arrangements for eligible income between \$416 and \$748. These arrangements are identical to those which applied for the 1983-84 year.

Sub-section (3) declares the rates set out in Part II of Schedule 18 to be the rates of tax payable for 1984-85 by a trustee taxed on behalf of a non-resident minor beneficiary. The rates are the same as for non-resident individuals (Part II of Schedule 17).

Sub-section (4), which is subject to sub-section (5), limits the tax otherwise payable by a trustee in terms of sub-section (3) in the same way as sub-section (2) does for individuals.

Sub-sections (5) to (7) are to the same effect as sub-sections (7) to (9) of section 19 which relate to resident beneficiaries - see the earlier notes on those sub-sections. Sub-sections (5) to (7) apply where a non-resident minor beneficiary, on whose behalf a trustee is assessed, is entitled to income from another trust estate to which Division 6AA of the Assessment Act also applies.

PART V - FINANCIAL YEAR COMMENCING ON 1 JULY 1985 AND SUBSEQUENT FINANCIAL YEARS

Part V, consisting of proposed sections 22 to 26 and in conjunction with Schedules 19 to 24, formally declares the rates of tax payable for the 1985-86 and subsequent financial years. Part V has four Divisions which correspond with the four Divisions in Part IV relating to the 1984-85 financial year.

Division 1Section 22 : Application of Part

Proposed section 22 formally provides that the rates of tax declared by Part V will apply for the 1985-86 and subsequent financial years.

Division 2Section 23 : Rates of tax and notional rates

Proposed section 23 will declare the ordinary rates of tax payable for 1985-86 and subsequent financial years by individuals and trustees generally. The rates are set out in Schedules 19 to 22 which are to be added to the Principal Act by this Bill. Part I of each of those Schedules applies to resident taxpayers, and Part II to non-resident taxpayers.

The general rates of tax for individuals are declared by proposed sub-section 23(1) and are set out in Schedule 19. The rates for resident taxpayers for 1985-86 and subsequent financial years differ from those for the 1984-85 financial year (set out in Part I of Schedule 13) in that they reflect the full year effect of the changes which are to apply from 1 November 1984.

The general rates of tax for resident taxpayers are:

For Parts of Taxable Income

<u>Exceeding</u>	<u>But Not</u>	<u>Reduced</u>	<u>Standard</u>	<u>Surcharge</u>	<u>Total</u>
<u>\$</u>	<u>Exceeding</u>	<u>Rate</u>	<u>Rate</u>		
	<u>\$</u>	<u>%</u>	<u>%</u>	<u>%</u>	<u>%</u>
0	4,595	NIL	NIL	NIL	NIL
4,595	12,500	25	NIL	NIL	25
12,500	19,500	NIL	30	NIL	30
19,500	28,000	NIL	30	16	46
28,000	35,000	NIL	30	18	48
35,000	-	NIL	30	30	60

The general rates of tax applicable to non-resident individuals are also declared by proposed sub-section 23(1) and are set out in Part II of Schedule 19. These rates also differ from those set out in Part II of Schedule 13 that is to apply for the 1984-85 financial year in that they reflect the full year effect of the new rates that are to apply from 1 November 1984 on incomes above \$28,000.

The general rates of tax for the 1985-86 and subsequent financial years for non-residents are:

For Parts of Taxable Income

<u>Exceeding</u>	<u>But Not</u>	<u>Standard</u>	<u>Surcharge</u>	<u>Total</u>
\$	<u>Exceeding</u>	<u>Rate</u>	%	%
	\$	%		
0	19,500	30	NIL	30
19,500	28,000	30	16	46
28,000	35,000	30	18	48
35,000	-	30	30	60

Sub-sections (2) to (9) of proposed section 23, as applicable to 1985-86 and subsequent financial years, correspond with sub-sections (2) to (9) of proposed section 18 that are to apply for the 1984-85 financial year and which were discussed earlier in this memorandum.

The notional rates of tax for purposes of the average rebate or complementary tax for primary producers are declared by sub-section (2) and are set out in Schedule 20. They reflect the changes to the rate scale effected by sub-section (1) and Schedule 19.

Sub-sections (3) and (4) set out the method of calculating the rate of complementary tax payable on primary production income where an individual taxpayer or trustee of a trust estate is required to pay the tax by operation of sub-section 156(4A) or 156(5A) of the Assessment Act.

The rates declared by sub-section (5) for taxpayers deriving a notional income as specified by section 59AB (depreciation recouped), section 86 (lease premium) or section 158D (abnormal income of authors or inventors) of the Assessment Act are set out in Schedule 21.

Sub-section (6) declares the rates of tax payable by a trustee in pursuance of section 98 or 99 of the Assessment Act. These rates are set out in Schedule 22.

Sub-sections (7) and (8) declare the rate of further tax payable on income to which section 94 of the Assessment Act applies (uncontrolled partnership income).

Sub-section (9) declares the rate of tax payable by a trustee in pursuance of section 99A of the Assessment Act to be 60%.

Division 3 - Resident taxpayers, resident beneficiaries and resident trust estates

Section 24 : Rates of tax where Division 6AA of Part III of the Assessment Act applies

Proposed section 24 declares the rates of tax payable for the 1985-86 and subsequent financial years by a resident taxpayer and a trustee assessed on behalf of a resident beneficiary, where Division 6AA of Part III of the Assessment Act applies. The rates which are set out in Part 1 of Schedules 23 and 24 apply to eligible income above \$416. Except where the ordinary tax payable is higher, the rate on such income is 46 per cent, subject to "shading-in" arrangements which are the same as for 1984-85 - see earlier notes on proposed section 19.

Section 25 : Limitation on tax payable by certain trustees

Proposed section 25 limits the tax otherwise payable for the 1985-86 and subsequent financial years by trustees of certain resident trust estates who are liable to be assessed under section 99 of the Assessment Act. This section corresponds to proposed section 20 (see earlier notes) which applies for the 1984-85 financial year. Sub-section (1) provides that no tax is payable if the net income of the resident trust estate does not exceed \$416 (the same as for 1984-85). Sub-section (2) applies where the net income exceeds \$416 but not \$832 (\$891 for 1984-85) and will limit the tax otherwise payable to 50 per cent of the excess over \$416. The lower amount of \$832 at which "shading-in" is achieved reflects the full year effect of the 25 per cent rate in 1985-86 and subsequent years.

Division 4 - Non-resident taxpayers, non-resident beneficiaries and non-resident trust estates

Section 26 : Rates of tax where Division 6AA of Part III of the Assessment Act applies

Proposed section 26 declares the rates of tax payable by non-resident taxpayers and trustees assessed on behalf of non-resident beneficiaries, where Division 6AA of Part III of the Assessment Act applies. The rates are set out in Part II of Schedules 23 and 24. For 1985-86 and subsequent years the rate of tax on eligible income up to \$416 is to be the standard rate of 30 per cent or tax at normal rates, whichever is greater and, subject to the same "shading-in" arrangements as are to apply in 1984-85, the rate of 46 per cent will apply to eligible income over \$416, unless the ordinary rate payable is higher.

Clauses 8 to 13 : Headings to Schedules

These clauses will amend the headings to Schedules 7 to 12 of the Principal Act by omitting from those headings the words "AND SUBSEQUENT FINANCIAL YEARS". The proposed amendments reflect the fact that these schedules will apply for the 1983-84 financial year only.

Clause 14 : Addition of Schedules

This clause will add at the end of the Principal Act Schedules 13 to 24. Schedules 13 to 18 relate to the 1984-85 financial year and Schedules 19 to 24 to the 1985-86 and subsequent financial years.

INCOME TAX (INDIVIDUALS) BILL 1984

This Bill will formally impose the tax payable in respect of income derived by individuals, and by trustees generally, during the 1984-85 income year. As is customary in such a Bill, it will also formally impose 1984-85 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 1984, will declare the rates of tax to apply to such taxpayers.

The Bill is similar to the Income Tax (Individuals) Act 1983 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 for the 1984-85 financial year income tax payable by individuals and trustees (other than trustees of superannuation funds, ineligible approved deposit funds and corporate unit trusts, and trustees assessed under sub-section 98(3) of the Assessment Act in respect of income of a non-resident company beneficiary, in respect of whom the relevant rates of tax are to be declared and imposed by the accompanying Income Tax (Companies, Corporate Unit Trusts and Superannuation Funds) Bill 1984). The rates to be imposed are, subject to the amendments to be made by the Income Tax (Rates) Amendment Bill 1984, those to be declared for that year by the Income Tax (Rates) Act 1982 which reflect the proposed changes to the personal income tax rate scale that are to apply from 1 November 1984 - see earlier notes on clause 7 of the Income Tax (Rates) Amendment Bill 1984.

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 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 1984-85 financial year and, until the Parliament otherwise provides, for the 1985-86 financial year. This will mean that the rates set out in the Income Tax (Rates) Amendment Bill 1984 for the 1984-85 financial year are to be levied and payable for that year only. The rates set out in that Bill for the 1985-86 financial year will apply on an interim basis for that later year until the Parliament enacts provisions corresponding with this Bill for that year.

Clause 8 : Provisional Tax

Clause 8 will formally impose provisional tax for the 1984-85 financial year, as required by sub-section 221YB(3) of the Assessment Act.

INCOME TAX (COMPANIES, CORPORATE UNIT TRUSTS AND SUPERANNUATION FUNDS) BILL 1984

The main purpose of this Bill is to impose income tax for the 1984-85 financial year, at the rates declared in the Bill, on the 1983-84 incomes of companies, registered organizations and corporate unit trusts, and the 1984-85 incomes of superannuation funds and ineligible approved deposit 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 1984-85 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 1984; 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 changes noted below, will be the same as the Income Tax (Companies, Corporate Unit Trusts and Superannuation Funds) Act 1983 - as amended by the Income Tax (Companies, Corporate Unit Trusts and Superannuation Funds) Amendment Act 1984-which declared and imposed the rates of income tax payable by companies, corporate unit trusts and superannuation funds for the 1983-84 financial year.

The changes are:

- . the imposition of tax at the rate of 20 per cent on the taxable income of a registered organization;
- . the imposition of tax, at the rate of 46 per cent, on the taxable income of a superannuation fund to which section 121DAB of the Assessment Act applies; and
- . the reduction, from 46 per cent to 30 per cent, of the rate of tax payable by the trustee of a superannuation fund which does not comply with the 30/20 rule.

The rates of income tax declared by clauses 6 to 10 of this Bill for the 1984-85 financial year are as follows:

- by sub-clause 6(2) and paragraph (a) of sub-clause 6(3) the general rate of tax payable on taxable income of companies is to remain at 46 per cent;
- by paragraph (b) of sub-clause 6(3) 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 sub-clause 6(4), the rate of tax payable by a registered organization is to be 20 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 sub-clause 8(1), 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 sub-clause 8(2), 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 is to be reduced from 46 per cent to 30 per cent;
- by sub-clause 8(3), 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;
- by sub-clause 8(4), the rate of tax payable on income of trusts qualifying as superannuation funds to which section 121DAB of the Assessment Act applies is to be 46%;
- by clause 9, the rate of tax payable by the trustee on the taxable income of an ineligible approved deposit fund is to remain at 46 per cent; and
- by clause 10, 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, remains at 46 per cent.

Clause 12 formally levies tax imposed by clause 5 at the rates declared in clauses 6 to 10 inclusive for the 1984-85 financial year and, until the Parliament otherwise provides, for the 1985-86 financial year.

Clause 14 of the Bill will authorise the collection in the 1985-86 financial year of instalments of tax payable by companies and corporate unit trusts 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 1985.

MEDICARE LEVY BILL 1984

Clause 1 : Short title

By this clause the Act imposing Medicare levy for 1984-85 will be cited as the Medicare Levy Act 1984.

Clause 2 : Commencement

This clause provides for the Act to come into operation on the day on which it receives the Royal Assent. But for this clause, the 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.

Clause 3 : Interpretation

Sub-clause (1) contains formal drafting definitions providing shorthand references to the Income Tax Assessment Act 1936 and the Medicare levy.

Sub-clause (2) is also a formal provision that relates references to taxable income or net income in the Bill to taxable income or net income of the relevant year of income.

Sub-section 251R(2) of the Income Tax Assessment Act 1936 (the "Assessment Act") provides that, for levy purposes, de facto couples are to be treated as being legally married. Under the proposed levy arrangements a legally or de facto married couple whose combined taxable incomes do not exceed a certain amount will not be required to pay levy. There will also be a ceiling on the combined amount of levy payable by such couples. The relevant time for determining whether a couple are married for these purposes is the last day of the year of income.

Sub-clause (3) modifies the classes of people who would otherwise be taken as married for these purposes. By paragraph (a) of the sub-clause a couple who have separated will not be taken to be married.

By paragraph (b) a person whose spouse has died during the year and who has not re-married at year's end will be taken to have been married on the last day of the year.

By sub-clause 3(4) expressions in the Bill that are also used in the Medicare levy provisions of the Assessment Act are to have the meaning they have in those provisions.

Clause 4 : Incorporation

This clause has the effect of providing for the Bill to operate in conjunction with the relevant Medicare levy provisions of the Assessment Act.

Clause 5 : Imposition of Medicare levy

This clause formally imposes Medicare levy that is payable in accordance with Part VIIB of the Assessment Act. Subsequent clauses deal with the rate of levy and with various circumstances affecting the amount, if any, of levy payable.

Clause 6 : Rate of levy

This clause fixes the rate of Medicare levy for 1984-85 at 1 per cent.

Sub-clause (1) will apply in relation to individual taxpayers. By section 251S of the Assessment Act levy is payable on the taxable income of an individual who is a resident of Australia for any part of the income year.

Sub-clause (2) declares a levy of 1 per cent to be payable by the trustee of a trust estate assessable under section 98 of the Assessment Act. Trustees are liable to be assessed under that section in respect of trust income to which a beneficiary who is under a legal disability, e.g., infancy, is presently entitled and may, by section 251S of the Act, be subject to the levy. The liability of such a trustee to pay levy may be affected by clause 11 of the Bill.

Sub-clause (3) declares a rate of levy of 1 per cent on income assessable to a trustee under section 99 or section 99A of the Assessment Act. A trustee is assessable under those sections in respect of trust income to which no beneficiary is presently entitled. Liability

for levy in these circumstances is created by section 251S of the Assessment Act, other than where the trustee is a trustee of a deceased estate.

Clause 7 : Levy in case of small income

The purpose of this clause is to grant relief from Medicare levy to people deriving low incomes.

By sub-clause 7(1) a taxpayer whose taxable income for 1984-85 is \$7,110 or less will not be required to pay levy.

Where a taxpayer's taxable income for 1984-85 exceeds \$7,110 but does not exceed \$7,484, the amount of levy payable is, by sub-clause 7(2), to be limited to 20% of the amount of the excess of the taxable income over \$7,110. The amount of levy ascertained in this way is to be further reduced by any reduction to which the person is entitled by reason of the family income threshold provisions of the Bill (clause 9), or because the taxpayer is a prescribed person for part of the year of income (clause 10).

Clause 8 : Maximum amount of levy

The purpose of this clause is to set a limit or "ceiling" on the amount of levy payable by a taxpayer or a married (legally or de facto) couple. For 1984-85 the ceiling (before any reduction to which the taxpayer is entitled by reason of being a prescribed person for part of the year) is to be \$733.32. Sub-clause 8(1) is to that effect.

Where a couple are legally or de facto married at the last day of the year of income they are, by sub-clause 8(2) to be eligible to share in the one "family" ceiling of \$733.32. This ceiling will come into operation where the sum of the taxable incomes of the couple exceeds \$73,332. Once the provision is triggered by the combined taxable income of the couple exceeding \$73,332 the amount of levy payable by each of them will be limited to \$366.66 (one-half the ceiling) plus the amount by which his or her spouse's levy liability (before any reduction to which the spouse is entitled by reason of being a prescribed person for part of the year of income) is less than \$366.66.

Under section 251S of the Assessment Act, levy is payable by a trustee (other than a trustee of a deceased estate) who is assessable and liable to pay tax under section 99 of that Act. This occurs where the income in respect of which the trustee is assessable is \$417 or

more. Against that background sub-clause 8(3) "shades-in" the amount of levy where the income assessable under section 99 is marginally in excess of the levy-free amount of \$416. It also sets, for assessments under both sections 99 and 99A, a limit of \$733.32 on the amount of levy payable for 1984-85.

Clause 9 : Amount of levy - person who has spouse
or dependants

Very broadly stated the purpose of this clause is to grant relief from Medicare levy to a person who has a family if the "family's" income is not greater than a threshold amount.

Sub-clause (1) specifies two conditions for exemption from levy under this provision. The first is that the person be legally or de facto married at the last day of the year of income or that the person be entitled to a rebate in his or her assessment in respect of the year of income for a daughter-housekeeper, or a housekeeper or as a sole parent. The second condition is that the income of the person's family (i.e. the taxable income of the person plus that of his or her spouse, if any) does not exceed the family income threshold in relation to the person (i.e., \$11,803 plus \$1,330 for each dependent child or student of the taxpayer or his or her spouse).

Sub-clause (2) in effect "shades-in" the amount of levy payable by a couple, or a sole parent, where the couple or sole parent is not entitled to exemption from levy by sub-clause (1), because the "family income" exceeds the relevant "family income threshold" by a small or moderate amount. In such circumstances the amount of levy payable by the taxpayer is to be reduced in accordance with a formula specified in the clause. The effect of the clause is to limit the levy payable by the taxpayer (before the application of any reduction to which the taxpayer is entitled as a part year prescribed person) to 20% of the excess of the "family income" over the "family income threshold".

Sub-clause (3) applies in the situation where both of a "married" couple are levy payers. In that situation each of the couple would, but for sub-clause (3), be entitled to have his or her levy liability reduced by the amount calculated under sub-clause 9(2). Sub-clause (3) avoids that result by providing, in effect, that where each of a couple are levy payers, any reduction in levy calculated in accordance with sub-clause (2) is to be apportioned between the couple on the basis of their taxable incomes.

For sub-clause (4) to operate two circumstances must be met. The first is that sub-clause (3) must operate to apportion the reduction in levy ascertained in accordance with sub-clause 9(2) between the couple (paragraph (a) of the sub-clause). The second is that one of a couple's share of the reduction amount ascertained in accordance with sub-clauses 9(2) and 9(3) exceeds the amount of levy he or she would be required to pay but for clause 10 (paragraph (b)). Where those circumstances are met the clause will operate to reduce the levy payable by the spouse of the person by the excess.

Sub-clause (5) defines two of the terms used in clause 9.

"Family income" is defined by the sub-clause to mean for each of a legally or de facto married couple the taxable income of the taxpayer plus that of his or her spouse, and for a person other than a married person (generally these will be sole parents), his or her taxable income.

"Family income threshold" is defined by the sub-clause to mean \$11,803 increased by \$1,330 for each dependent child or student in respect of whom the taxpayer or his or her spouse, if any, would have been entitled to an income tax dependant rebate if those rebates had not been replaced by family allowances.

Sub-clause (6) provides that in determining the "family income threshold" of a person who is not a legally or de facto married person at the last day of the year of income, a child or student shall not be taken into account in calculating the family income threshold of that person unless the person is receiving family allowances for the child or student. This will avoid each of a separated couple being able to increase their threshold on account of the child or student.

Clause 10 : Reduction of levy - person who is prescribed person for part of the year of income

The purpose of this clause is to give a reduction in the amount of levy that would otherwise be payable under preceding provisions where the taxpayer is a "prescribed person" for part only of the year.

The meaning of the expression "prescribed person" is fixed by section 251U of the Assessment Act. Under that section a person shall be taken to have been a prescribed person during a particular period if, for example, he or

she was entitled to free medical treatment as a member of the Defence Force or under any of the Repatriation Acts, and had no dependants or had dependants who also qualified as prescribed persons. By section 251T of the Assessment Act, a taxpayer is freed entirely from the levy if he or she was a prescribed person during the whole of the year of income.

Under clause 10 of the Bill, a person who qualifies as a prescribed person for part only of the year (for example, because he or she is a member of the Defence Force for part only of the year, or for any period has dependants who do not qualify as prescribed persons and who is deemed by sub-section 251U(3) to have been a prescribed person for one-half of that period) will have his or her levy reduced by an amount corresponding to the proportion of the year that they so qualify.

Clause 11 : Levy payable by a trustee assessable under section 98 of the Assessment Act

The purpose of this clause is to calculate the levy liability of a trustee assessed under section 98 of the Assessment Act in respect of the share of trust income of a beneficiary who is under a legal disability (e.g., a minor) in the same way as if that income were assessed to the beneficiary concerned.

Levy is imposed on the trustee by clause 6(2) of the Bill and the effect of clause 11 is that if the beneficiary were to have the benefit of, for example, the levy ceiling or one of the low income thresholds if he or she were to be assessed on the income, the same rules are to apply where the income is assessed to the trustee.

Clause 12 : Financial years for which levy is payable

By sub-clause (1) the Medicare levy is payable for the 1984-85 financial year.

Sub-clause (2) provides, as an interim measure, that until the Parliament formally otherwise declares, the levy imposed by the Bill is also to apply for the 1985-86 year. A provision of this kind is needed for cases where it is necessary early in the financial year to make an assessment in respect of income of that year, e.g., where a person is leaving Australia.

Sub-clause (3) provides for the ceiling for levy purposes to be increased to \$750 for the 1985-86 year. This provision is necessary because the 1984-85 ceiling of \$733.32 provided in clause 8 reflects the application of a \$750 ceiling from 1 November 1984 only.