

70-1989

LIBRARY

1987-88-89

THE PARLIAMENT OF THE COMMONWEALTH

OF AUSTRALIA

HOUSE OF REPRESENTATIVES

TAXATION LAWS AMENDMENT (RATES AND REBATES) BILL 1989

EXPLANATORY MEMORANDUM

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

TABLE OF CONTENTS

	<u>Page</u>
General outline	1
Financial impact	4
Main features	5
Notes on clauses	7

INDEX OF SPECIFIC MEASURES

<u>Measure</u>	<u>Main Features</u>	<u>Notes on Clauses*</u>
	<u>Page</u>	<u>Page</u>
Rates of tax for :		
. individuals	5	13
. unearned income of minors	6	17
. undistributed income (s.99A)	6	17
. fringe benefits	6	8
. bearer debenture interest	6	13
. trust recoupment amounts	6	19
Concessional rebates	7	10
Indexation of rebates	7	8
Quarterly provisional tax	7	12

* Main notes on clauses
commence on this page

GENERAL OUTLINE

TAXATION LAWS AMENDMENT (RATES AND REBATES) BILL 1989

This Bill will amend various taxation Acts to give effect to a number of proposals announced in the 12 April 1989 Economic Statement :

the Income Tax Rates Act 1986 :

Personal rates of tax

.. to declare the rates of tax payable by individuals, and by trustees generally, to give effect to the announcement to reduce personal income tax rates in two stages -

the first with effect from 1 July 1989, by -

- increasing the top of the first rate step from \$12,600 to \$17,650, and introducing a new rate of 21 per cent to apply in the income range \$5,001 to \$17,650;
- increasing the top of the second rate step from \$19,500 to \$20,600, so that the existing 29 per cent rate applies in the new income range \$17,651 to \$20,600;
- reducing the 40 per cent rate to 39 per cent, to apply in the income range \$20,601 to \$35,000;
- introducing a new rate of 47 per cent, to apply in the income range \$35,000 to \$50,000; and

the second with effect from 1 January 1990, by -

- reducing the 49 per cent rate to 47 per cent for incomes over \$50,000.

A table comparing the proposed rates (including changes to the income ranges at which the proposed rates apply) with existing rates is set out below -

For parts of taxable income

<u>Exceeding</u>	<u>but not exceeding</u>	<u>Proposed</u>	<u>Existing</u>
\$	\$	rate	rate
		%	%
0	5,100	Nil	Nil
5,100	12,600) 21) 24
12,600	17,650) -) 29
17,650	19,500) 29) -
19,500	20,600) -) 40
20,600	35,000) 39) -
35,000	50,000) 47) 49
50,000	-) 49*) -

* This 49 per cent rate is to be reduced to 47 per cent from 1 January 1990.

Unearned income of minors

.. to declare new rates of tax payable by individuals, and by trustees, on the unearned income of minors for 1989-90 and 1990-91 and subsequent years (subject to shading-in arrangements);

Undistributed trust income

.. to declare new rates of tax payable by trustees on undistributed income of certain trust estates (section 99A) for 1989-90 and 1990-91 and subsequent years.

the Fringe Benefits Tax Act 1986

.. to declare a new rate of fringe benefits tax of 47 per cent for the year of tax that commences on 1 April 1990 and for subsequent years of tax.

the Income Tax (Bearer Debentures) Act 1971

.. to reduce to 47 per cent the basic rate of tax payable under section 126 of the Income Tax Assessment Act 1936 on interest paid or credited on or after 1 January 1990 by a company on bearer debentures.

. the Trust Recoupment Tax Act 1985 and
the Trust Recoupment Tax Assessment Act 1985

.. to reduce the rates of tax payable on a
primary taxable amount or a secondary taxable
amount.

. the Income Tax Assessment Act 1936

Concessional rebates

.. to increase to \$1,000 each the rebates of tax
for a spouse, daughter-housekeeper or
housekeeper, and to \$1200 where there is a
dependent child or student;

.. to increase to \$940 the sole parent rebate;

.. to increase to \$450 and \$900, respectively,
the rebates of tax for an invalid relative
and a parent or parent-in-law; and

.. to index these rebate levels for the 1990-91
and subsequent income years on the basis of
movements in the All Groups Consumer Price
Index number.

Quarterly provisional tax

.. to permit the Commissioner of Taxation to
reduce the amount of quarterly provisional
tax instalments otherwise payable in
circumstances where an expected reduction in
tax makes that appropriate, with effect from
the commencement of the 1989-90 income year.

FINANCIAL IMPACT

The estimated cost to revenue of amending the Income Tax Rates Act 1986 to reduce the personal rates of is as follows -

	<u>1989-90</u> \$M	<u>1990-91</u> \$M
Changes to personal income tax rate scale for residents	4,750	5,480
Changes to personal income tax rate scale for non-residents	Nil	2
Changes to the rate of tax on the unearned income of minors - Division 6AA of Part III of the Income Tax Assessment Act 1936	Nil	1

The estimated revenue effects of the reduction in the rate of fringe benefits tax are \$55 million in 1990-91 and \$60 million in 1991-92.

The estimated cost of the change in the rate of tax on certain interest paid by companies on bearer debentures is expected to be negligible.

The changes to the trust recoupment tax legislation should have no effect on the revenue.

The estimated cost of the increases in the levels of concessional rebates for dependants is as follows -

	<u>1989-90</u> \$M	<u>1990-91</u> \$M	<u>1991-92</u> \$M
Rebate for -			
. spouse, daughter - housekeeper or housekeeper	127	190	220
. sole parent	13	20	24
. invalid relative	0.1	0.1	0.1
. parent or parent-in-law	1	1	1

MAIN FEATURES

The Bill will amend the following Acts :

- . Income Tax Rates Act 1986;
- . Fringe Benefits Tax Act 1986;
- . Income Tax (Bearer Debentures) Act 1971;
- . Trust Recoupment Tax Act 1985;
- . Trust Recoupment Tax Assessment Act 1985;
- . Income Tax Assessment Act 1936.

Rates of tax

(Clauses 3 and 7, and Schedule)

By amending the Income Tax Rates Act 1986, the Bill will give effect to the proposal announced in the 12 April 1989 Economic Statement to reform the personal income tax rate scale. With effect from 1 July 1989 the Bill will -

- . increase the top of the first rate step from \$12,600 to \$17,650, and introduce a new marginal rate of 21 per cent to apply in the income range of \$5,101 to \$17,650;
- . increase the second rate step from \$19,500 to \$20,600, so that the existing 29 per cent marginal rate applies in the new income range \$17,651 to \$20,600;
- . reduce the 40 per cent marginal rate to 39 per cent, to apply in the income range \$20,601 to \$35,000; and
- . introduce a new rate of 47 per cent, to apply in the income range \$35,001 to \$50,000.

To give effect to the reduction - from 49 per cent to 47 per cent - in the maximum personal marginal rate that is to apply from 1 January 1990 to income in the range over \$50,000, the Bill will declare a composite rate of 48 per cent to apply on assessment in respect of that income for the 1989-90 year of income, and a rate of 47 per cent for subsequent years of income.

Consequential on the changes to be made to the personal income tax rate scale, this Bill will also amend the Income Tax Rates Act 1986 to -

- . apply the 29 per cent rate of tax on the first \$20,600 of taxable income of a non-resident individual, and apply to taxable incomes of non-residents exceeding \$20,600 the proposed new rate scale for residents, as applicable ;

- . reduce the rate of further tax on uncontrolled partnership income assessed under section 94 of the Income Tax Assessment Act 1936 ("the Assessment Act") from 49 per cent to 48 per cent for 1989-90 and to 47 per cent for subsequent income years;
- . reduce the rate of tax on income assessed to a trustee under section 99A of the Assessment Act from 49 per cent to 48 per cent for 1989-90 and to 47 per cent for subsequent income years; and
- . reduce the rate of tax on the unearned income of minors subject to the provisions of Division 6AA of Part III of the Assessment Act from 49 per cent to 48 per cent for 1989-90 and to 47 per cent for subsequent income years, subject to shading-in arrangements on relevant income above \$416.

Fringe Benefits Tax
(Clauses 3 and 4, and Schedule)

The rate of tax that is to apply to employers liable to pay fringe benefits tax is to be reduced from 49 per cent to 47 per cent, for the year of tax that commences on 1 April 1990 and for each subsequent year.

Bearer debenture interest
(Clause 3 and 6, and Schedule)

The rate of tax payable under section 126 of the Income Tax Assessment Act 1936 on interest paid by a company on bearer debentures, where the names and addresses of the holders are not furnished to the Commissioner of Taxation, is equivalent to the maximum rate in the personal rate scale, 49 per cent. In line with the reduction of that rate from 1 January 1990, the rate of tax payable under section 126 for interest paid or credited on or after that date is to be 47 per cent.

Trust Recoupment Tax
(Clauses 3, 8 and 9, and Schedule)

Changes are also to be made to the Trust Recoupment Tax Act 1985 to apply a rate of 48 per cent on a primary or secondary taxable amount for 1989-90 and a rate of 47 per cent for subsequent income years. These changes are also in line with the reduction in the maximum personal marginal rate, and the rate to apply to income assessed to a trustee under section 99A of the Income Tax Assessment Act 1936. An amendment of the Trust Recoupment Tax Assessment Act 1985 will substitute new multipliers for the multiplier in subsection 6(3) of that Act which is used for calculating a secondary taxable amount. The new multipliers, for 1989-90 and for subsequent years respectively, reflect the rates of trust recoupment tax that will be payable in the relevant years on primary taxable amounts.

Concessional Rebates
(Clauses 3 and 5, and Schedule)

The amendments proposed to the Income Tax Assessment Act 1936 will increase the levels of the rebates of tax available to taxpayers in respect of certain dependants for the 1989-90 and subsequent income years as follows :

	<u>Present</u>	<u>Proposed</u>
	\$	\$
Spouse of the taxpayer	830	1000*
Daughter-housekeeper	830	1000*
Invalid relative	376	450
Parent/parent-in-law	749	900
Sole parent	780	940
Housekeeper	830	1000*

* (As at present, the level of the rebates are increased by a further \$200 where there is a dependent child or student in respect of whom a rebate of tax would have been allowable to the taxpayer but for the operation of subsection 159J(1A) of the Assessment Act.)

The Bill also proposes that the new levels of concessional rebates be indexed for the 1990-91 and subsequent income years in line with movements in the All Groups Consumer Price Index number.

Reduction of amount of instalment of provisional tax
(Clauses 3 and 5, and Schedule)

The Bill will give effect to the proposal announced in the 12 April 1989 Economic Statement to modify the Quarterly Provisional Tax (QPT) System to authorise the Commissioner of Taxation, in certain circumstances, to reduce an amount otherwise payable as an instalment of provisional tax.

For this provision to apply, the Commissioner must be satisfied that taxation laws that have been or will be enacted will have the effect of reducing a taxpayer's liability to pay income tax in respect of a year of income.

Notes on the clauses of the Bill follow.

Clause 1 : Short title

This clause allows the amending Act to be cited as the Taxation Laws Amendment (Rates and Rebates) Act 1989.

Clause 2 : Commencement

By this clause it is proposed that the amending Act is to come into operation on the day on which it receives Royal Assent. But for this clause, the Act would, by reason of subsection 5(1A) of the Acts Interpretation Act 1901, come into operation on the twenty-eighth day following the date of Assent.

Clause 3 : Amendments

By clause 3, the Acts specified in the Schedule to the Bill are to be amended as set out in the Schedule. The particular amendments are discussed below.

THE FRINGE BENEFITS TAX ACT 1986

The Fringe Benefits Tax Act 1986 formally imposes the fringe benefits tax, liability for which is established by the Fringe Benefits Tax Assessment Act 1986 ("the FBT Act"). The tax applies to the value of benefits specified in the FBT Act that are provided to an employee or an employee's associates (typically, the employee's spouse or children) by an employer in respect of the employee's employment activities.

The Schedule to the Bill will amend the Fringe Benefits Tax Act 1986 to repeal section 6 and substitute a new section 6 to reduce the rate of tax from 49 per cent to 47 per cent.

By clause 4 of the Bill the new rate will apply in respect of a fringe benefits taxable amount of an employer for the year of tax that commences on 1 April 1990 or a subsequent year of tax.

THE INCOME TAX ASSESSMENT ACT 1936Indexation of rebate amounts in sections 159J, 159K and 159L

The Schedule proposes to insert a new section - section 159HA - in Subdivision A of Division 17 of Part III of the Income Tax Assessment Act 1936 ("the Assessment Act"). The new section will set out the basis of indexation to be followed to establish the maximum level of concessional rebate allowable under particular sections of the Assessment Act to a taxpayer each year in respect of the following persons -

- . spouse of the taxpayer (section 159J);
- . daughter-housekeeper (section 159J);
- . invalid relative (section 159J);
- . parent of the taxpayer, or of the taxpayer's spouse (section 159J); and
- . housekeeper (section 159L).

Indexation will also apply in determining the level of the sole parent rebate allowable to a taxpayer under section 159K of the Assessment Act.

New section 159HA will operate to index the concessional rebate amounts to ascertain the maximum rebates for the 1990-91 income year and each subsequent year.

Subsection 159HA(1) specifies that sections 159J, 159K and 159L of the Assessment Act are to apply in relation to 1990-91 or a subsequent year of income (defined in subsection (7) as an "indexing year of income"), as if each rebate amount that applied for the immediately preceding year of income (referred to as an "indexable amount") was replaced by an amount calculated using the formula :

Previous indexable amount x Indexation factor.

For these purposes -

"Previous indexable amount" is the rebate amount that applied for the year preceding the year of income in respect of which the new indexed rebate amount is to be calculated ; and

"Indexing factor" is the indexation factor for the relevant year of income determined in accordance with new subsections 159HA(2) to (6).

By new subsection 159HA(2) the amount calculated in accordance with subsection (1) is to be rounded to the nearest dollar.

New subsection 159HA(3) sets out how to determine the indexation factor in the formula in subsection 159HA(1), for a year of income (the "indexing year of income"). The factor is the number ascertained by dividing the sum of the All Groups Consumer Price Index numbers (as defined in new subsection (7) - see later notes) for the four quarters ended 31 March immediately preceding the commencement of the indexing year of income, by the sum of the corresponding numbers for the year ended the preceding 31 March. This follows indexation arrangements in other areas of the taxation laws.

Subsection 159HA(4) rounds the indexation factor to three decimal places.

Under subsection 159HA(5) the index number first published for any quarter of a year is used in the calculation in subsection 159HA(3). Any substituted index number published later is to be disregarded.

By new subsection 159HA(6), if at any time the

Australian Statistician changes the reference base for the All Groups Consumer Price Index number, any indexation factor calculated after that time is to be determined by reference to index numbers in terms of the new base.

Subsection 159HA(7) defines a number of terms used in section 159HA. These are :

"indexable amount" is a term used in subsection 159HA(1) to describe the amount of a rebate that is to be subject to indexation. It relates to rebates for -

- . a spouse or daughter-housekeeper, as specified in subsections 159J(1B) or (2) of the Assessment Act (not including the notional rebate amounts for dependants in class 3 (child less than 16 years of age) or class 4 (student) in the table in subsection 2)) (paragraph (a));
- . a sole parent as specified in section 159K (paragraph (b)); and
- . a housekeeper as specified in section 159L (paragraph (c)).

Where a rebate amount is changed by indexation under section 159HA, that amount becomes the indexable amount.

"indexation factor" is a term also used in subsection 159HA(1) and means the factor ascertained in accordance with subsection 159HA(3).

"indexing year of income" is defined to mean the year of income commencing on 1 July 1990 or a subsequent year of income - these are the income years for which indexation is to be available.

"index number" in relation to a quarter, means the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Australian Statistician in respect of the particular quarter.

Concessional rebates for dependants

The maximum amounts of rebates which may be allowed to taxpayers who contribute to the maintenance of certain dependants will be increased by the amendments contained in the Schedule to this Bill.

By subsection 159J(1B) of the Assessment Act the level of rebate for a dependent spouse or daughter-housekeeper is increased by \$200, where there is a

dependent child or student. The Schedule will amend subsection 159J(1B) to maintain that higher rebate by substituting rebate amounts that reflect the higher rebates for a spouse or daughter-housekeeper as set out in the new table to be inserted in subsection 159J(2), i.e., the proposed rebates of \$1,000 are to be read as \$1,200.

By clause 5 of the Bill the amendment to subsection 159J(1B) is to apply to assessments for the 1989-90 and subsequent income years.

The amendment of subsection 159J(2) by the Schedule will omit the table now in the subsection and insert a new table, the effect being to increase the maximum amounts of concessional rebates in respect of certain classes of dependants specified in the table. A comparison of the relevant existing rebate levels with those proposed is as follows :

	<u>Present</u> \$	<u>Proposed</u> \$
Spouse of the taxpayer	830	1,000
Daughter-housekeeper	830	1,000
Invalid relative	376	450
Parent of taxpayer or of the taxpayer's spouse	749	900

The new table is to apply in assessments for the 1989-90 and subsequent years of income. The level of the rebates in 1990-91 and subsequent income years will be determined having regard to the new indexation provision contained in section 159HA - see earlier notes on that section.

The higher rebates will continue to be reduced by one dollar for every four dollars by which the separate net income of the dependant exceeds \$282 in the relevant year of income.

Sole Parent Rebate

Section 159K of the Assessment Act, which is also to be amended by the Schedule, allows a maximum rebate of tax of \$780 for a taxpayer who has the sole care of a child under 16 years of age or a student under 25 years of age, and who would have been entitled to a rebate under section 159J in respect of that child or student if such a rebate were still available.

The maximum amount of the sole parent rebate is to be increased to \$940.

The amendment will apply, by clause 5 of the Bill, in assessments for the 1989-90 and subsequent income years. The level of the rebate in 1990-91 and subsequent income years will be indexed in accordance with new section 159HA which was explained earlier.

Housekeeper

The Schedule will also amend section 159L of the Assessment Act to increase the maximum rebate allowable for a housekeeper :

- (a) to \$1,200 in the case of a taxpayer who, but for subsection 159J(1A), would have been entitled to a rebate of tax in respect of a child or student under 16 years of age; and
- (b) to \$1,000 in any other case.

By clause 5 of the Bill, the amendments made to section 159L will apply to assessments for the 1989-90 income year and subsequent years. Again the levels of the rebates in 1990-91 and subsequent years will be determined having regard to the indexation provision contained in section 159HA discussed earlier.

Reduction of amount of instalment of provisional tax

The Schedule will insert a new section - section 221YCB - in Division 3 of Part VI of the Assessment Act. The new section will authorise the Commissioner of Taxation to reduce the quarterly provisional tax (QPT) instalment otherwise payable in circumstances where a reduction in personal tax rates is to take place. It will also enable the Commissioner to take such a reduction into account where a taxpayer has elected to self-assess in accordance with section 221YDA of the Assessment Act, before the new rates are enacted.

Assessments of provisional tax are generally not able to be issued before December each year because of timing considerations associated with the Budget. As a result, at least the first two QPT instalments that are due in September and December each year are likely to be higher than necessary if reduction in tax rates is to occur.

This clause will address this problem by permitting the Commissioner to reduce to an appropriate amount a QPT instalment which would otherwise be excessive in the light of the tax reductions proposed.

New subsection 221YCB(1) sets out the circumstances in which the Commissioner may reduce an instalment of provisional tax. The circumstances for this authority to be exercised are where the Commissioner is aware that laws that have been passed or are likely to be passed by Parliament (paragraph (a)) alter, or are likely to alter, the income tax liability of a taxpayer in respect of income of a year of income (paragraph (b)).

Subsection 221YCB(2) makes it clear that the Commissioner's powers to alter provisional tax in other

specified circumstances - sections 221YDC and 221YG of the Assessment Act - are not affected by this section.

INCOME TAX (BEARER DEBENTURES) ACT 1971

The Schedule to the Bill will amend the Income Tax (Bearer Debentures) Act 1971 to alter the rate of tax payable under section 126 of the Income Tax Assessment Act 1936 on interest payable by a company on bearer debentures, where the names and addresses of the holders of the debentures are not provided by the company to the Commissioner of Taxation.

The Schedule proposes to omit paragraph 6(b) of the Income Tax (Bearer Debentures) Act 1971 and insert a new paragraph (b). By this paragraph, the rate of tax imposed upon an affected amount of interest will be 47 per cent. Under clause 6 of the Bill the change in the rate applies for amounts of interest paid or credited on or after 1 January 1990.

THE INCOME TAX RATES ACT 1986

Introductory note

The Income Tax Rates Act 1986 ("the Rates Act") declares the rates of tax payable by specified categories of taxpayers. The rates payable by individuals, and by trustees generally, are declared by Division 2 of Part II of the Rates Act for the 1986-87 financial year, and by Division 3 of Part II for the 1987-88 and subsequent financial years.

The amendments to the Rates Act proposed by the Schedule will declare rates of tax for the 1989-90 and subsequent financial years to give effect to the reduction in personal income tax announced in the 12 April 1989 Economic Statement. They will also provide for the flow-on of the reduced personal income tax rates to the rates of tax to apply to non-residents, trustees assessed under sections 98, 99 and 99A of the Income Tax Assessment Act 1936 ("the Assessment Act"), uncontrolled partnership income and the unearned income of minors (eligible taxable income) assessed under the provisions of Division 6AA of Part III of the Assessment Act.

Rates of income tax for the 1986-87 financial year
(Division 2 of Part II)

As specified by subclause 7(1) of the Bill, the amendments of the Rates Act to be made by the Schedule will apply to assessments in respect of income of the 1989-90 and all subsequent years of income. Division 2 of Part II of the Rates Act, which declares the rates in respect of income of the 1986-87 financial year, will be repealed by the Schedule. Schedules 1 to 6 of the Rates

Act, which apply in conjunction with the provisions of Division 2 of Part II, will also be repealed.

Rates of income tax for the 1987-88 and subsequent financial years (Division 3 of Part II)

Subdivision A of Division 3 of Part II of the Rates Act is to the effect that the rates declared by Division 3 apply for the 1987-88 and subsequent financial years. By the amendments in the Schedule, Division 3 of Part II declares the rates that will apply to financial years specified by an application provision - in the present instance, by subclause 7(1) of this Bill - to the 1989-90 and subsequent years of income.

The heading to Division 3 of Part II is to be altered to reflect the Division's function in declaring the rates that are to apply for a period, in accordance with the relevant application provisions. The headings of those schedules to the Rates Act which operate in conjunction with Division 3 of Part II, i.e., Schedules 7 to 12, will also be altered accordingly.

Subdivision A of Division 3 of Part II is to be repealed, so that the rates declared by Division 3 will apply for the financial years as determined from time to time.

Rates of tax and notional rates (section 12 of the Rates Act)

Section 12 of the Rates Act declares the ordinary rates of tax payable by individuals and trustees generally. These rates are set out in Schedules 7 to 10 to the Rates Act.

Subsection 12(1) of the Rates Act declares the general rates for individuals. These are set out in clause 1 of each of Parts I and II of Schedule 7.

The existing rate table in Part I of Schedule 7 to the Rates Act, which specifies the rates of tax for resident taxpayers, will be replaced by a rate table that will apply, by virtue of subclause 7(1) of this Bill, for the 1989-90 and subsequent financial years. The new rates for resident individuals will be as follows :

For parts of taxable income

<u>exceeding</u>	<u>but not exceeding</u>	<u>Rate</u>
\$	\$	%
0	5,100	NIL
5,100	17,650	21
17,650	20,600	29
20,600	35,000	39
35,000	-	47

The rates are set out in Part I of Schedules 11 and 12 of the Rates Act and apply where eligible taxable income exceeds \$416.

The rate of tax of 49 per cent declared in Part I of Schedules 11 and 12 will be reduced to 47 per cent for the 1989-90 and subsequent financial years. By paragraph 7(2)(a) of the Bill, the rate of tax is to be 48 per cent for the 1989-90 financial year.

Under section 13 of the Rates Act, "shading-in" arrangements will apply to the part of eligible taxable income between \$417 and the income level at which tax at the 47 per cent rate (48 per cent for 1989-90) is to commence. On the basis of the reduced rates of tax, the income level at which the shade-in at 66 per cent ceases to apply will be reduced from \$1615 to \$1525 for 1989-90, and to \$1445 for subsequent financial years. Accordingly, references in section 13 to \$1615 will be replaced by \$1445 and, by virtue of paragraph 7(2)(b) of the Bill, by \$1525 for the 1989-90 financial year only.

Limitation on tax payable by certain trustees (section 14 of the Rates Act)

Section 14 of the Rates Act limits the tax otherwise payable by trustees of certain resident trust estates that are liable to be assessed under section 99 of the Assessment Act. It applies where the trustee is assessable 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 in the personal income tax rate scale. The rate of tax payable by a trustee is specified by section 12 and Part I of Schedule 10 of the Rates Act.

Under subsection 14(1) of the Rates Act, no tax is payable by the trustee if the net income or the part of the net income of the resident trust estate does not exceed \$416. For income just above \$416, subsection 14(2) shades-in tax at the rate of 50 per cent until the income exceeds \$800.

On the basis of the reduction in the first-step marginal rate from 24 per cent to 21 per cent, the income level in subsection 14(2) at which the shading-in ceases to apply is to be reduced from \$800 to \$717 for the 1989-90 and subsequent financial years.

Rates of tax for non-resident taxpayers where Division 6AA of Part III of the Assessment Act applies (section 15 of the Rates Act)

Section 15 of the Rates Act declares the rates of

Subsection 12(2) of the Rates Act declares the notional rates for the purpose of calculating the averaging benefit or complementary tax under section 156 of the Assessment Act for primary producers to whom the income averaging provisions of that Act apply. These notional rates are set out in Schedule 8. Subsection 12(6) declares, subject to sections 13 and 15, the rates 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 certain trust estates. These rates are set out in Schedule 10.

References in Schedules 8 and 10 to \$12,600 - currently the upper limit of the first-step marginal rate for resident individuals - will be replaced with the revised upper limit of the first-step marginal rate of \$17,650. This will affect the calculation of the notional rate in respect of certain trust incomes, and the rate payable by a trustee who is liable to be assessed and pay tax under section 99 in respect of certain income.

References in section 12 of the Rates Act to 49 per cent - the maximum marginal rate of personal income tax for the 1988-89 financial year - will be replaced with the reduced maximum rate of 47 per cent for the 1989-90 and subsequent financial years. This will affect the calculation of :

- . further tax payable under section 94 of the Assessment Act, where there is included in the taxable income of a taxpayer any amount to which that section applies, in accordance with the rate declared by subsection 12(7) of the Rates Act;
- . further tax payable under section 94 of the Assessment Act, where the taxpayer is a trustee liable to be assessed and to pay tax under section 98 or 99 of that Act, in accordance with the rate declared by subsection 12(8) of the Rates Act; and
- . tax payable by a trustee liable to tax under section 99A of the Assessment Act, in accordance with the rate declared by subsection 12(9) of the Rates Act.

By paragraph 7(2)(a) of the Bill the rate of tax will be 48 per cent for the 1989-90 financial year.

Rates of tax for resident taxpayers where Division 6AA of Part III of the Assessment Act applies (section 13 of the Rates Act)

Section 13 of the Rates Act declares the rates of tax payable by a resident taxpayer who is a minor, and by a trustee assessed on behalf of a resident beneficiary, where Division 6AA of Part III of the Assessment Act applies.

apply, by virtue of subclause 7(1) of this Bill, for the 1989-90 and subsequent financial years. The new rates for non-residents will be as follows :

For parts of taxable income

<u>exceeding</u> \$	<u>but not exceeding</u> \$	<u>Rate</u> %
0	20,600	29
20,600	35,000	39
35,000	-	47

As for resident taxpayers, paragraph 7(2)(d) of the Bill will operate to ensure that the rate of tax on the taxable income of non-resident taxpayers exceeding \$50,000 is 48 per cent for the 1989-90 financial year.

Tax payable by non-resident taxpayers for 1989-90 and subsequent financial years may be calculated from the following table :

Parts of taxable income

<u>exceeding</u> \$	<u>but not exceeding</u> \$	<u>Tax on total</u> <u>taxable income</u>
0	20,600	29 cents for each dollar of taxable income
20,600	35,000	\$5,974 plus 39 cents for each dollar of taxable income in excess of \$20,600
For the 1989-90 financial year		
35,000	50,000	\$11,590 plus 47 cents for each dollar of taxable income in excess of \$35,000
50,000	-	\$18,640 plus 48 cents for each dollar of taxable income in excess of \$50,000
For subsequent financial years		
35,000	-	\$11,590 plus 47 cents for each dollar of taxable income in excess of \$35,000

By the operation of paragraph 7(2)(d) of the Bill, income in the income range exceeding \$50,000 will be taxed at a rate of 48 per cent in the 1989-90 financial year. This is a composite rate that reflects the reduction in the maximum personal marginal rate applying to that range of income from 49 per cent to 47 per cent from 1 January 1990.

Tax payable for 1989-90 and subsequent financial years may be calculated from the following table :

<u>Parts of taxable income</u>		
<u>exceeding</u> \$	<u>but not exceeding</u> \$	<u>Tax on total</u> <u>taxable income</u>
0	5,100	NIL
5,100	17,650	NIL plus 21 cents for each dollar of taxable income in excess of \$5,100
17,650	20,600	\$2,635.50 plus 29 cents for each dollar of taxable income in excess of \$17,650
20,600	35,000	\$3,491 plus 39 cents for each dollar of taxable income in excess of \$20,600
For the 1989-90 financial year		
35,000	50,000	\$9,107 plus 47 cents for each dollar in excess of \$35,000
50,000	-	\$16,157 plus 48 cents for each dollar in excess of \$50,000
For subsequent financial years		
35,000	-	\$9,107 plus 47 cents for each dollar in excess of \$35,000

The rate table in Part II of Schedule 7 of the Rates Act sets out the rates of tax for non-resident taxpayers. It will be replaced by a rate table that will

tax payable by non-resident taxpayers, and by trustees assessed on behalf of non-resident beneficiaries, where Division 6AA of Part III of the Assessment Act applies. These rates are set out in Part II of Schedules 11 and 12 of the Rates Act.

The rate of tax of 49 per cent declared in Part II of Schedules 11 and 12 will be reduced to 47 per cent for the 1989-90 and subsequent financial years. By paragraph 7(2)(a) of the Bill, the rate of tax is to be 48 per cent for the 1989-90 financial year.

Section 15 of the Rates Act applies for "shading-in" arrangements to the part of eligible taxable income between \$417 and the income level at which tax at the 47 per cent rate (48 per cent for 1989-90) is to apply. On the basis of the reduced rates of tax, the income level at which the shading-in at 66 per cent ceases to apply will be reduced from \$905 to \$855 for 1989-90, and to \$810 for subsequent financial years. Hence, references in section 15 to \$905 will be replaced by \$810 and, by virtue of paragraph 7(2)(c) of the Bill, by \$855 for the 1989-90 financial year only.

Pro-rating of the tax-free threshold (section 20 of the Rates Act)

Division 4 of Part II of the Rates Act sets out the basis for pro-rating the tax-free threshold (the zero rated step in the personal income tax rate scale) for an individual taxpayer who, in a year of income, first ceases a course of full-time education or becomes, or ceases to be, a resident of Australia.

Consistent with the removal of provisions of the Rates Act that are no longer current, provisions in section 20 of the Rates Act relevant only to the calculation of the tax-free threshold for the 1986-87 financial year are to be omitted.

THE TRUST RECOUPMENT TAX ACT 1985

The Trust Recoupment Tax Act 1985 formally imposes the trust recoupment tax, liability for which is established by the Trust Recoupment Tax Assessment Act 1985 (the Assessment Act). The trust recoupment tax legislation is designed to ensure the recovery of income tax sought to be avoided under new generation trust stripping schemes entered into on or after 12 May 1982.

Under the Assessment Act, where income is sought to be stripped under arrangements of a specified type, the trustee is liable to pay trust recoupment tax on the income, called a "primary taxable amount", of the year of income.

The Assessment Act also establishes a liability to pay trust recoupment tax for a year of income on an amount of income - called a "secondary taxable amount" - where the tax on the primary taxable amount is unlikely to be paid by the trustee, e.g., because the stripped trust has been wound up. In such cases, the secondary taxable amount is equal to the unpaid trust recoupment tax imposed on the primary taxable amount, multiplied by a factor of 2.04. Both the primary taxable amount of a year of income and the secondary taxable amount are presently subject to tax at 49 per cent.

The Schedule proposes to amend paragraph 5(a) of the Trust Recoupment Tax Act 1985 to impose a rate of 47 per cent on a primary taxable amount and a secondary taxable amount. By subclause 8(1) of the Bill, the 47 per cent rate of tax is declared for the 1989-90 and subsequent years of income. However, consequent upon the application of a top marginal rate of tax of 48 per cent for 1989-90, subclause 8(2) of the Bill declares that to be the rate of tax on a primary or secondary taxable amount for that income year.

THE TRUST RECOUPMENT TAX ASSESSMENT ACT 1985

The Schedule will also amend subsection 6(3) of the Trust Recoupment Tax Assessment Act 1985. Section 6 of that Act sets out the circumstances in which certain persons who effectively enjoyed the benefit of income stripped from a trust may become jointly and severally liable for trust recoupment tax. Subsection 6(3) of the Act creates a secondary taxable amount that, as indicated, is equal to the unpaid trust recoupment tax on a primary taxable amount, multiplied by the factor 2.04. Because the rate on a secondary taxable amount under subsection 6(3) is the same, the tax payable on a secondary taxable amount created under subsection 6(3) is equal to the unpaid recoupment tax payable on the primary taxable amount.

Following the change to the rate of trust recoupment tax on a primary taxable amount, the Schedule will also change the multiplier to be applied to unpaid recoupment tax to ascertain a secondary taxable amount from 2.04 (based on the present 49 per cent rate of tax) to 2.12 (reflecting the new 47 per cent rate).

The amendment to be made by the Schedule is to apply by virtue of subclause 9(1) of the Bill for the 1989-90 and subsequent income years. Because of the 48 per cent tax rate to apply in 1989-90, the multiplier of that year will be 2.08 by virtue of the operation of subclause 9(2) of the Bill.

Clause 4 : Application of amendment of the
Fringe Benefits Act 1986

By this clause, the amendment of the Fringe Benefits Tax Act 1986 by the Schedule is to apply for the year of tax commencing on 1 April 1990 and all subsequent years of tax.

Clause 5 : Application of amendments of the Income Tax
Assessment Act 1936

The amendments by the Schedule of the Income Tax Assessment Act 1936 - other than the amendments to insert new sections 159HA (indexation of concessional rebates) and 221YCB (quarterly provisional tax); see earlier notes on these sections - apply to assessments for the year of income commencing on 1 July 1989 and all subsequent years.

Clause 6 : Application of amendment of the Income Tax
(Bearer Debentures) Act 1971

By clause 6 of the Bill the proposed new rate of tax of 47 per cent is to apply to amounts of interest paid or credited on or after 1 January 1990.

Clause 7 : Application of amendments of the
Income Tax Rates Act 1986

Subject to the operation of subclause 7(2), the amendments of the Income Tax Rates Act 1986 by the Schedule apply to assessments for the year of income commencing on 1 July 1989 and all subsequent years.

Subclause 7(2) applies in respect of assessments for the year of income commencing 1 July 1989, so that the necessary changes are made to the Income Tax Rates Act 1986 to declare a rate of 48 per cent in lieu of the 47 per cent rate for income in the range over \$50,000 in the personal income tax scales. It also makes changes to the 47 per cent rate that would otherwise apply in other areas so that it is read as 48 per cent, and changes certain shade-in limits for that year of income.

Clause 8 : Application of amendment of the Trust
Recoupment Tax Act 1985

Clause 9 : Application of amendment of the Trust
Recoupment Tax Assessment Act 1985

Clauses 8 and 9 relate to the application of the amendments to the abovementioned Acts proposed by the Schedule to the Bill. The operation of these clauses is discussed in the explanations of the amendments to the Acts proposed by the Schedule - refer to the earlier notes on clause 3.

