1993

THE PARLIAMENT OF AUSTRALIA

HOUSE OF REPRESENTATIVES

TAXATION (DEFICIT REDUCTION) BILL 1993

EXPLANATORY MEMORANDUM

(Circulated by the authority of the Treasurer
the Hon John Dawkins, M.P.)

40736 Cat. No. 93 4001 0

CORRECTION

TAXATION (DEFICIT REDUCTION) BILL 1993

Explanatory Memorandum

The following corrections are to be made to the Explanatory Memorandum circulated 17 August 1993:

Page 51: substitution of page to correct errors in the table

Page 61: para 10.10 under retail price rise of motor vehicles, replaces the $65 000.00 figure with $61 710.70

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7.14 The 1993-94 low income thresholds and shading-in ranges will therefore be as shown in the following table:

Table Medicare levy low income thresholds and shading-in ranges

Category of taxpayer	No levy if taxable (or family) income does not exceed	Reduced levy if taxable (or family) income is within the range	Ordinary rate of levy where taxable (or family) income exceeds
Individual taxpayer	$12,688	$12,689-$13,643	$13,643
Married taxpayer with no child/students	$21,366	$21,367-$22,974	$22,974
Married taxpayer with:			
1 child/student	$23,466	$23,467-$25,232	$25,232
2 children/students	$25,566	$25,567-$27,490	$27,490
3 children/students	$27,666	$27,667-$29,748	$29,748
4 children/students	$29,766*	$29,767*-$32,006#	$32,006
For each additional child or student add:			
	*$2,100**		
	$2,258#		

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GENERAL OUTLINE AND FINANCIAL IMPACT

The Taxation (Deficit Reduction) Bill 1993 will amend various Acts (unless otherwise indicated all amendments refer to the *Income Tax Assessment Act 1936*) by making the following changes:

P rsonal tax cuts

Amends the *Income Tax Rates Act 1986* to declare the rates of tax payable by both residents and non residents for the 1993-94 and subsequent income years.

Date of effect: 1 November 1993

Proposal announced: 1993-94 Budget, 17 August 1993

Financial Cost:	93/94	94/95	95/96	96/97
	$1,660m	$2,900m	$3,120m	$3,450m

Fring Benefits Tax

Rat s of tax

- Amends the *Fringe Benefits Tax Act 1986* to increase the rate of fringe benefits tax from 48.25% to 48.4%.

Date of effect: 1 April 1994

Proposal announced: 1993-94 Budget, 17 August 1993

Financial Gain:	93-94	94-95	95-96	96-97
	-	$9m	$8m	$8m

Excess Domestic Travel

- Amends the *Fringe Benefits Tax Assessment Act 1986* to create an Excess Domestic Travel Allowance Fringe Benefit. Denies a deduction for travel expenses in excess of a reasonable amount.
  Both measures relate only to travel within Australia.

Date of effect: 1 April 1994

Proposal announced: 1993-94 Budget, 17 August 1993

Financial Gain:	93-94	94-95	95-96	96-97
	-	$60m	$45m	$45m

Non-deductible Expenses

- Allows deductions for expenses relating to the provision of entertainment, club fees, leisure facilities, travel expenses of accompanying relatives, Higher Education Contribution Scheme payments and Student Financial Supplement Scheme payments incurred by employers in providing fringe benefits to their employees.

- Makes reciprocal amendments to the *Fringe Benefits Tax Assessment Act 1986* (FBTAA) to ensure those fringe benefits provided to the employees are subject to fringe benefits tax under the FBTAA.

Date of effect: 1 April 1994

Proposal announced: 1993-94 Budget, 17 August 1993

Financial Gain:	93-94	94-95	95-96	96-97
	-	$435m	$240m	$240m

Car Parking deductions

- Denies a deduction for car parking expenses for certain non-employees.

Date of effect: 1 July 1994

Proposal announced: 1993-94 Budget, 17 August 1993

Financial Gain:	93-94	94-95	95-96	96-97
	-	-	$70m	$35m

Rebate for low-income taxpayers

- Provides for a rebate of up to $100 to low-income taxpayers whose taxable income is less than $23,200.

Date of effect: Assessments for 1993-94 and subsequent years of income

Proposal announced: 1993-94 Budget, 17 August 1993

Financial Cost:	93/94	94/95	95/96	96/97
	-	$340m	$330m	$320m

Unused annual leave and unused long service leave payments

- Removes the concessional tax treatment that applies to lump sum payments of unused annual leave and unused long service leave made on termination of employment so that, with two exceptions, such amounts are included in full in a taxpayer's assessable income. The exceptions are:
    - taxpayers aged 55 or more on 17 August 1993 will retain the current concessional treatment that applies to that portion of unused long service leave which accrued prior to 16 August 1978; and
    - taxpayers (including taxpayers aged 55 or more on 17 August 1993) who receive payments in respect of unused annual leave or unused long service leave and whose termination of employment is as a consequence of bona fide redundancy or invalidity or is under an approved early retirement scheme will retain the existing tax treatment for both unused annual leave and unused long service leave.

Date of effect: Payments in respect of unused annual leave and unused long service leave made on or after 18 August 1993.

Proposal announced: 1993-94 Budget, 17 August 1993

Financial Gain:	93/94	94/95	95/96	96-97
	$150m	$325m	$280m	$290m

Credit Unions - Removal of exemption for interest receiv d from non-corporate members and taxation as co-operatives or companies

- Provides for the phasing out of the exemption for income in the nature of interest received by credit unions from their non-corporate members on loans made to those members and allows credit unions to be taxed as co-operatives.

Date of effect: For large credit unions (those with total assets in excess of $30 million), the exemption will be removed with effect from the 1994-95 year of income (subject to a concessional rate of 20% for the 1994-95, 1995-96 and 1996-97 years of income); and for all other credit unions, the exemption will be removed with effect from the 1995-96 year of income (subject also to a concessional rate of 20% for the 1995-96 and 1996-97 years of income). All credit unions will be liable for the full corporate rate of tax with effect from the 1997-98 year of income and all later years of income.

Proposal Announced: Budget 1993-94, 17 August 1993.

Financial Gain:	93/94	94/95	95/96	96-97
	-	-	$25m	$30m

Income Tax Rates Act 1986

- Provides for credit unions to be taxed at the concessional rate of 20% following the removal of the exemption from tax of income in the nature of interest received by credit unions from their non-corporate members on loans made to those members.

Date of effect: For large credit unions (those with total assets in excess of $30 million), the concessional rate will apply for the 1994-95, 1995-96 and 1996-97 years of income; and for all other credit unions, the concessional rate will apply for the 1995-96 and 1996-97 years of income. The full corporate rate of tax will apply to all credit unions for the 1997-98 year of income and all later years of income.

Proposal announced: Budget 1993-94, 17 August 1993.

Taxation of Friendly Societies and Other Registered Organisations

Income Tax Rates Act 1986

- The rate of tax paid by friendly societies and other registered organisations on their life insurance and other similarly taxed business is to be brought into line, on an incremental basis, with the rate of tax applicable to the same business undertaken by life companies.

Date of effect: increase to 33% for the 1994-95 income year;
increase to 36% for the 1995-96 income year;
increase to 39% from the 1996-97 income years and subsequent years.

Proposal announced: Budget 1993-94, 17 August 1993

Financial Gain:	93-94	94-95	95-96	96-97
	-	-	$30m	$75m

Income Tax Assessment Act 1936

- Allows deductions to friendly societies and other registered organisations for expenses they incur in gaining the investment component of life insurance premiums.

Date of effect: 1 July 1994.

Proposal announced: Budget 1993-94, 17 August 1993

Financial Cost:	93-94	94-95	95-96	96-97
	-	-	$5m	$5m

- Increases the rebate currently applying to assessable bonuses on life policies issued by friendly societies to reflect the change in tax rates paid by friendly societies.

Date of effect: The rebate is to be increased to 33% from 1 July 1995, to 36% from 1 July 1996, and to 39% from 1 July 1997.

Proposal announced: Budget 1993-94, 17 August 1993

Financial Cost:	93-94	94-95	95-96	96-97
	-	-	-	$1m

Changes to the Medicare levy threshold levels

Medicare Levy Act 1986

- Amends the *Medicare Levy Act 1986* to increase the taxable income levels below which persons are exempt from the levy.
- the new levels compare with the old as follows:

Taxpayer	1992-93	1993-94
Individuals	$11,887	$12,688
Married couples/sole parents	$20,070	$21,366

Date of effect: 1 July 1993

Proposal announced: 1993-94 Budget, 17 August 1993.

Financial Cost:	93-94	94-95	95-96	96-97
	$30m	$60m	$45m	$45m

Sales Tax: General Rate Increases

Sales Tax (Exemptions and Classifications) Act 1992

- Increases existing sales tax rates by one percentage point from 10% to 11%, 15% to 16%, 20% to 21% and 30% to 31%.

Date of effect: 18 August 1993

- Increases sales tax rates by a further one percentage point from 11% to 12%, 16% to 17%, 21% to 22% and 31% to 32%.

Date of effect: 1 July 1995

Proposals announced: 1993-94 Budget, 17 August 1993.

Financial Gain:	93/94	94-95	95-96	96-97
	$435m	$585m	$1207m	$1345m

Sales Tax on Wine, Cider and Other Similar Beverages

- Increases the rate of sales tax on alcoholic wines from 20% to 31%. The rate of tax on those low alcohol wines that are taxable at 10% will increase to 21%.

Date of effect: 18 August 1993

Proposal announced: 1993-94 Budget, 17 August 1993.

Financial Gain:	93/94	94-95	95-96	96-97
	$70m	$95m	$105m	$110m

Sales Tax on Luxury Motor Vehicles

- Changes the effective rate of sales tax on luxury motor vehicles, so that:

  (a) the portion of the wholesale value that does not exceed the luxury threshold will be taxed at the rate of sales tax applicable to that kind of motor vehicle (ie. either 16% or 21%, depending on the classification of the vehicle); and

  (b) a new rate of 45% will apply to the excess.

Date of effect: 18 August 1993

Proposal announced: 1993-94 Budget, 17 August 1993.

Financial Gain:	93/94	94-95	95-96	96-97
	$5m	$10m	$10m	$10m

CHAPTER ONE *Personal Tax Rate Cuts*

Summary of amendments

1.1 ***Purpose of amendment***: To bring forward the 1994-95 tax cuts to 1 November 1993 and defer the tax cuts which were to apply from 1 January 1996 *[Clause 3]*.

1.2 ***Date of Effect***: 1 November 1993

Background to the legislation

1.3 In the 1993 Budget, it was announced that the rates of tax scheduled to commence on 1 July 1994 would be brought forward to 1 November 1993. Further, the tax rates scheduled to commence on 1 January 1996 would be deferred.

1.4 The current and proposed future personal income tax scales for residents from 1 November 1993 will be as shown in the Table below -

1.5 Current and Future Income Tax Rate Scales for Residents

Current		From 1 Nov 1993	
Taxable Income ($pa)	Marginal Rate (%)	Taxable Income ($pa)	Marginal Rate (%)
0- 5400	0	0- 5400	0
5400-20700	20	5400-20700	20
20700-36000	38	20700-38000	34
36000-50000	46	38000-50000	43
Over 50000	47	Over 50000	47

1.6 The rates of tax for non-residents will be as shown in the above table with the exception that a tax rate of 29% applies to taxable income in the range $0 to $20,700.

1.7 Because the 1994-95 tax cuts are being brought forward to 1 November 1993, the Bill will also declare composite rates to apply, for both residents and non-residents, in respect of taxable income for the 1993-94 year of income. The composite rates for residents, based on the rates before and after 1 November 1993 as shown in the above table, will be as follows -

1.8 Composite Income Tax Rate Scales for 1993-94

Taxable Income ($pa)	Marginal Rate (%)
0- 5400	0
5400-20700	20
20700-36000	35.33
36000-38000	38
38000-50000	44
Over 50000	47

1.9 The rates of tax for non-residents for the 1993-94 income year will be as shown in the above table with the exception that a tax rate of 29% will apply to taxable income in the range $0 to $20,700.

Explanation of the Amendments

1.10 The Bill will amend the *Income Tax Rates Act 1986* to bring forward the 1994-95 personal tax cuts to 1 November 1993. The amendments will also defer the tax cuts which were to commence on 1 January 1996. The reductions in personal income tax rates affect the marginal rates of personal income tax that now apply in the income range of $20,700 to $50,000.

1.11 The Bill will declare the rates of personal income tax which will apply, to both residents and non-residents, for assessments in respect of:

- the 1993-94 year of income ***[Clause 5]***;
- the 1994-95 and subsequent years of income ***[Clause 6]***.

1.12 In addition, the Bill will declare the rates of tax to apply to a future prescribed year of income (after 1994-95) and years of income after that prescribed year ***[Subclause 2(3) and Clause 7]***.

1.13 The amendments will also repeal the *Tax Legislation Amendment Act 1992* which was enacted last year to declare the rates of tax to apply for the 1994-95 and subsequent years of income ***[Clauses 9]***.

CHAPTER TWO *Fringe Benefits Tax*

RATES OF FBT TAX

Summary of the amendments

2.1 ***Purpose of the amendments:*** To amend the *Fringe Benefits Tax Act 1986* (FBTA) to increase the rate of fringe benefits tax from 48.25% to 48.4% ***[Clause 10]***.

2.2 ***Date of effect:*** 1 April 1994 ***[Clause 13]***

Explanation of the amendments

2.3 The Bill will increase the rate of fringe benefits tax in section 6 of the FBTA from the existing 48.25% to 48.4%. This brings the fringe benefits tax rate in line with the top marginal tax rate (including medicare levy) for individuals. ***[Clause 12]***

EXCESS DOMESTIC TRAVEL ALLOWANCE

Summary of Amendments

2.4 ***Purpose of the amendments***: To amend the *Fringe Benefits Tax Assessment Act 1986* (FBTAA) to create an Excess Domestic Travel Allowance Benefit where a relevant allowance is in excess of a prescribed amount ***[Clause 15]***. The Bill will also amend the *Income Tax Assessment Act 1936* (ITAA) to deny a deduction for travel expenses in excess of a prescribed amount. Both measures relate only to travel within Australia ***[Clause 31]***.

2.5 The Bill inserts a ***new Division 7A*** into the FBTAA. Subdivision A of the new Division sets out what constitutes a domestic travel allowance and what constitutes an excess domestic travel allowance benefit. Subdivision B of the new Division sets out what is the taxable value of an excess domestic travel allowance fringe benefit.

2.6 The Bill inserts ***new section 51AM*** into the ITAA to deny deductions to employees for excess domestic travel expenses. The Bill also inserts ***new section 51AN*** into the ITAA to deny deductions to persons other than employees for excess domestic travel expenses.

2.7 ***Date of effect:*** The amendments to the FBTAA are to apply to FBT assessments from and including the FBT tax year commencing on 1 April 1994 ***[Clause 18]***.

2.8 The amendments to the ITAA are to apply to expenses incurred on or after 1 April 1994 ***[Clause 36]***.

Background to the legislation

2.9 A deduction under subsection 51(1) of the ITAA is available for expenditure incurred on the cost of food, drink, accommodation or incidentals on employment-related travel. This deduction, however, is subject to the substantiation provisions of the ITAA being satisfied. The relevant substantiation provisions are sections 82KZ and 82KZA.

2.10 In the case of domestic travel, subsection 82KZ(4) provides relief from the substantiation requirements contained in subsections 82KZ(2) and 82KZA where the taxpayer has received an allowance in respect of those expenses (whether or not the allowance was paid under an industrial instrument) and the following conditions are satisfied:

- the expenditure incurred does not exceed the allowance; and
- the Commissioner of Taxation considers the allowance to be reasonable.

2.11 The Commissioner provides guidelines on what he considers to be a reasonable travelling allowance by way of rulings, the most recent being Taxation Ruling TR 93/22 issued on 15 July 1993.

2.12 Where a taxpayer claims expenditure on food, drink, accommodation and incidentals in excess of a reasonable travel allowance and/or the travel allowance received by the taxpayer exceeds what the Commissioner considers to be reasonable, a deduction will be denied for all of the expenditure where the amounts are not fully substantiated.

2.13 Under the existing law, there is no limit imposed as to the amount of expenditure a taxpayer can claim with regard to these expenses. A taxpayer will be entitled to a deduction for expenditure incurred which is in excess of what the Commissioner considers reasonable provided the substantiation requirements (as outlined above) are satisfied.

Explanation of the amendments

Fringe Benefits Tax Assessment Act 1986

2.14 ***New Division 7A*** of the FBTAA provides for a new type of fringe benefit - an excess domestic travel allowance fringe benefit ***[Clauses 16 and 17]***.

2.15 The Bill defines a domestic travel allowance in terms similar to the substantiation provisions definition of travel allowance in subsection 82KT(1) of the ITAA. The three main conditions for such an allowance to exist are:

- the travel must be away from the employee's ordinary place of residence;
- the travel must be undertaken in the course of performing the employee's duties; and
- the travel must be within Australia. ***[New subsection 31A(1)]***

2.16 An excess domestic travel allowance benefit is that part of a domestic travel allowance which exceeds a limit which is to be prescribed by Regulation. ***[New subsection 31A(2)]***

2.17 The taxable value of an excess domestic travel allowance fringe benefit is the amount of the domestic travel allowance which exceeds the prescribed limit. ***[New section 31B]***

Income Tax Assessment Act 1936

2.18 ***New sections 51AM and 51AN*** operate to deny a deduction to taxpayers who claim domestic travel expenses that are in excess of a prescribed limit ***[Clause 32]***.

2.19 Where an employee would otherwise be entitled to a deduction for domestic travel expenses, that part of the deduction which exceeds a limit which is to be prescribed by Regulation will no longer be allowable. ***[New subsection 51AM(2)]***

2.20 Where a person other than an employee would otherwise be entitled to a deduction for domestic travel expenses, that part of the deduction which exceeds a limit which is to be prescribed by Regulation will no longer be allowable. ***[New subsection 51AN(2)]***

2.21 ***New section 51AN*** applies to a traveller who is a natural person, a partner who is a natural person, or a trustee who is a natural person. ***[New subsection 51AN(1)]***

2.22 The Bill defines domestic travel expenses in terms similar to the definition of travel allowance in the substantiation provisions of subsection 82KT(1) of the ITAA, i.e. the expenses were incurred in respect of travel:

- away from the person's ordinary place of residence;
- undertaken for employment (section 51AM) or other income-producing (section 51AN) purposes; and
- within Australia. ***[New subsection 51AM(3) and subsection 51AN(3)]***

2.23 The Bill will also amend subsection 221A(1) of the ITAA so that the excess domestic travel allowance is excluded from the definition of "salary and wages". ***[Clauses 34 and 35]***

NON-DEDUCTIBLE EXPENSES

Summary of amendments

2.24 ***Purpose of amendment:*** To amend the *Income Tax Assessment Act 1936* (ITAA) to allow deductions for expenses relating to the provision of entertainment, club fees, leisure facilities, travel expenses of accompanying relatives, Higher Education Contribution Scheme (HECS) payments and Student Financial Supplement Scheme (SFSS) payments incurred by employers in providing fringe benefits to their employees. The Bill will also make reciprocal amendments to the *Fringe Benefits Tax Assessment Act 1986* (FBTAA) to ensure those fringe benefits provided to the employees are subject to fringe benefits tax under the FBTAA ***[Clause 19]***.

2.25 Subsection 51(6), subsection 51AB(4), subsection 51AE(4), subsection 51AG(1) and subsection 54(3) of the ITAA deny deductibility for relevant expenses which would otherwise be deductible. The Bill will insert into section 51, section 51AB, section 51AE, section 51AG and section 54 of the ITAA, a new subsection which will allow deductibility of those expenses where the expense was incurred in providing a fringe benefit ***[Clause 41]***.

2.26 As a result of these amendments to the ITAA, section 64, section 64A, section 65 and some definitions in subsection 136(1) of the FBTAA will have no further application. The Bill repeals these redundant provisions ***[Clauses 20 and 21]***. The Bill also repeals section 65CAA and amends a number of other sections to delete reference to that section ***[Clauses 23 to 26]***

2.27 ***Date of effect:*** The amendments to the FBTAA are to apply to FBT assessments from and including the FBT tax year commencing on 1 April 1994.

2.28 The amendments to the ITAA are to apply in relation to fringe benefits provided on or after 1 April 1994.

Background to the legislation

2.29 An employer's costs incurred in providing fringe benefits to an employee (or an associate of an employee) are generally allowable deductions under subsection 51(1) of the ITAA.

2.30 However, there are certain benefits where the cost to the employer of providing those benefits to the employee is not allowable as a deduction under subsection 51(1) of the ITAA. While these benefits are included as fringe benefits for purposes of the FBTAA, the taxable value of the benefits are nil as their value is reduced to the extent to which they are non-deductible for income tax purposes.

2.31 The following types of fringe benefits are subject to these arrangements:

2.32 *Entertainment Expenses*

- Subsection 51AE(4) operates to deny deductions to the extent to which the relevant loss or outgoing is in respect of the provision of entertainment. Section 64 of the FBTAA operates so that the taxable value in respect of the entertainment component of relevant fringe benefits is reduced by the amount of "eligible entertainment expenditure".

2.33 *Club fees and expenditure relating to leisure facilities*

- Section 65 of the FBTAA applies to reduce the taxable value of these fringe benefits where the amount of any expenditure incurred by the employer on the benefit is expenditure in respect of which a deduction is denied under section 51AB or subsection 54(3) of the ITAA.

2.34 *Expenditure on Higher Education Contribution/Students Financial Supplement Scheme*

- Section 64A of the FBTAA applies to reduce the taxable value of these fringe benefits where the amount of any expenditure incurred by the employer on the benefit is expenditure in respect of which a deduction is denied under subsection 51(6) of the ITAA. Payments affected by subsection 51(6) include both HECS payments and SFSS payments.

2.35 *Travel expenses of accompanying relatives*

- Section 65 of the FBTAA applies to reduce the taxable value of these fringe benefits where the amount of any expenditure incurred by the employer on the benefit is expenditure in respect of which a deduction is denied under 51AG of the ITAA.

Explanation of the amendments

2.36 The Bill ensures that subsection 51(6), subsection 51AB(4), subsection 51AE(4), subsection 51AG(1) and subsection 54(3) of the ITAA which deny deductibility for expenses relating to the provision of entertainment, club fees, leisure facilities, travel expenses of accompanying relatives, HECS payments and SFSS payments do not apply where the expense was incurred in providing a fringe benefit. ***[New subsection 51(6A), new subsection 51AB(5A), new subsection 51AE(5AA), new subsection 51AG(1A) and new subsection 54(3A)] [Clauses 42 to 46]***

2.37 The Bill also repeals section 64, section 64A, and section 65 of the FBTAA. As the expenses incurred in providing a fringe benefit relating to entertainment, club fees, leisure facilities, travel expenses of accompanying relatives, HECS payment and SFSS payments are no longer subject to subsection 51(6), subsection 51AB(4), subsection 51AE(4), subsection 51AG(1) and subsection 54(3) of the ITAA, these FBTAA provisions are redundant. ***[Clause 20]***

2.38 As a consequence of these amendments, the taxable value of fringe benefits provided in the form of entertainment, club fees, leisure facilities, travel expenses of accompanying relatives, HECS payments and SFSS payments will no longer be subject to any reduction. The taxable value of the relevant fringe benefit will, therefore, be subject to fringe benefits tax in the usual manner.

CAR PARKING

Summary of amendments

2.39 ***Purpose of the amendment:*** To amend the *Income Tax Assessment Act 1936* (ITAA) to deny a deduction for car parking expenses for certain non-employees ***[Clause 37]***.

2.40 The Bill will insert a ***new section 51AGB*** into the ITAA. The new section, which applies to certain non-employees, denies a deduction for car parking expenses where conditions similar to those in section 39A of the *Fringe Benefits Tax Assessment Act 1986* (FBTAA) apply. While the amount of the deduction denied is the actual amount of the expense incurred in providing the car parking facilities, a taxpayer may elect to choose an alternate amount based on either the commercial parking station method of valuation or the market value method of valuation.

2.41 ***Date of effect:*** The amendments are to apply to car parking expenses incurred by taxpayers on or after 1 July 1994 ***[Clause 40]***.

Background to the legislation

2.42 From 1 July 1993, car parking benefits provided under certain circumstances by an employer to an employee were made subject to Fringe Benefits Tax (FBT). To ensure that the overall tax effect of providing either a car parking benefit or an allowance to an employee to cover car parking is substantially similar, section 51AGA of the ITAA was inserted to deny a deduction to employees who incur car parking expenses under similar circumstances to those that give rise to an FBT liability.

2.43 Under these arrangements, persons other than employees are more favourably treated because they are able to claim an income tax deduction for car parking.

2.44 The rationale for imposing FBT, and denying a tax deduction to employees, for car parking under certain circumstances is equally relevant to persons other than employees. It is inequitable that some persons receive a tax deduction for the cost of car parking facilities while others must bear the

cost of equivalent facilities without tax relief. Accordingly, the amendment in this Bill is required to restore equity in relation to the taxation treatment of these expenses.

Explanation of the amendments

Denial of deduction for certain non-employees

2.45 ***New section 51AGB*** will operate to deny a deduction for certain car parking expenses to non-employees ***[Clause 38].***

Application

2.46 The denial of deductions under section 51AGA of the ITAA applies only to employees who incur expenditure in providing car parking facilities to themselves. This amendment extends that denial of deduction for car parking facilities to any other taxpayer (a non-employee) who incurs expenditure on providing car parking facilities to themselves, including partners and trustees. ***[New paragraph 51AGB(1)(b)]***

2.47 The new section will only apply if the conditions set out in ***new subsection 51AGB(1)*** apply. They are:

- a deduction for expenditure incurred in the provision of car parking facilities is, apart from this section, deductible;
- the person to whom the car parking expenses relate is a natural person, a partner who is a natural person, or a trustee who is a natural person, and that person has a primary place of self-employment;
- a permanent commercial car parking facility available for all-day parking is located within 1 kilometre of the premises where the car is parked;
- the car is parked at, or in the vicinity of, the primary place of self-employment and is parked at that place for more than four hours during the period between 7.00am and 7.00pm on that day;
- the expenditure is in respect of the provision of the relevant car parking facilities;
- the car is used on that day to commute between the person's place of residence and their primary place of self-employment;
- the provision of car parking facilities is not excluded by Regulation; and
- the day the car is parked is on or after 1 July 1994.

Valuation

2.48 The value of the amount of deduction to be denied is, unless the taxpayer makes an election, the actual amount spent on the provision of the car parking facilities ***[New subsection 51AGB(2)]***.

2.49 Where an election is made by the taxpayer, a deduction for the actual amount spent on the provision of car parking facilities is not denied in total. The actual amount that would be deductible but for new section 51AGB is reduced by either:

- the commercial parking station amount; or
- the market value amount ***[New subsection 51AGB(3)]***.

The commercial parking station amount

2.50 The commercial parking station amount is the lowest fee for all-day parking charged by any commercial parking station operator within a 1 kilometre radius of the car parking facilities. ***[New subsection 51AGB(4)]***

2.51 The Bill specifies that the 1 kilometre distance between the commercial parking station and the premises on which the car is parked is measured by the shortest practicable route. This route can be travelled by foot, car, train, boat, etc., whichever produces the shortest route. The 1 kilometre distance starts from the car entry point at parking premises and extends to the car entry point at the commercial parking station. ***[New subsection 51AGB(8)]***

2.52 The Bill also provides a formula for converting longer term parking rates into daily rate equivalents for the purpose of determining the commercial parking station amount. ***[New subsection 51AGB(9)]***

The market value amount

2.53 The market value amount is calculated on an arm's length valuation and needs to be based on a report from a suitably qualified valuer. ***[New subsection 51AGB(7)]***. The report must be retained for five years after its receipt ***[Clause 39]***.

Anti-avoidance

2.54 The Bill includes anti-avoidance provisions which will ensure that the commercial parking station amount is not undervalued. ***[New subsection 51AGB(10)]***

CHAPTER THREE *Low-Income Rebate*

Summary of amendments

3.1 ***Purpose of the amendments***: To amend the *Income Tax Assessment Act 1936* to provide a rebate of up to $100 to taxpayers whose taxable income is below $23,200 ***[Clause 28]***. The full rebate entitlement will be available to taxpayers whose taxable income does not exceed $20,700. The rebate reduces at the rate of 4 cents for each $1 of taxable income above $20,700.

3.2 ***Date of Effect***: Assessments for the 1993-94 and later years of income.

Background to the legislation

3.3 In the 1993-94 Budget, it was announced that there would be a rebate on assessment, in the 1993-94 and later years of income, for taxpayers whose taxable income is below $23,200. Taxpayers with a taxable income of up to $20,700 will be entitled to a $100 rebate. Taxpayers with taxable incomes between $20,700 and $23,200 will have the $100 rebate reduced at the rate of 4 cents for each $1 of taxable income in excess of $20,700. There will be no entitlement to the rebate where taxable income is $23,200 or greater.

Explanation of the amendments

3.4 The Bill will introduce ***new section 159N*** into the *Income Tax Assessment Act 1936* to give effect to the rebate for low-income taxpayers which was announced in the 1993 Budget. Taxpayers whose taxable income on assessment is below $23,200 will be entitled to the rebate on assessment in the 1993-94 and later income years ***[Clauses 29 and 30]***.

3.5 Taxpayers with a taxable incomes of up to $20,700 will be entitled to a rebate of $100 on assessment. The rebate will be reduced at the rate of 4 cents for each dollar of taxable income in excess of $20,700 ***[New subsection 159N(2)]***.

Example

3.6 A taxpayer with taxable income of $22,000 for the 1993-94 year of income will be entitled to a low-income rebate, calculated on assessment as follows:

(a) Rebate before reduction:	$100
(b) Reduction in rebate [(22,000-20,700) x .04]:	$ 52
(c) Rebate entitlement on assessment for 1993-94 [(a)-(b)]:	$ 48

CHAPTER FOUR *Unused annual leave and unused long service leave payments*

Summary of amendments

4.1 ***Purpose of the amendments:*** To amend the *Income Tax Assessment Act 1936* to remove the concessional tax treatment that applies to lump sum payments of unused annual leave and unused long service leave made on termination of employment so that, with two exceptions, such amounts are included in full in a taxpayer's assessable income. The exceptions are:

- taxpayers aged 55 or more on 17 August 1993 will retain the current concessional treatment that applies to that portion of unused long service leave which accrued prior to 16 August 1978; and

- taxpayers (including taxpayers aged 55 or more on 17 August 1993) who receive payments in respect of unused annual leave or unused long service leave and whose termination of employment is as a consequence of bona fide redundancy or invalidity or is under an approved early retirement scheme will retain the existing tax treatment for both unused annual leave and unused long service leave.

4.2 The purpose of the proposed amendments is to ensure that the tax system does not discourage taxpayers from using their leave entitlements for their intended purpose. The proposed amendments will ensure that leave payments will be taxed no differently if they are received during employment than if they are received upon termination of employment. However, they recognise that some taxpayers will have less flexibility than others in using accrued leave entitlements for their intended purpose.

4.3 ***Date of effect:*** The amendments will apply to payments in respect of unused annual leave and unused long service leave made on or after 18 August 1993.

Background to the legislation

Payments in respect of unused annual leave

What is annual leave?

4.4 Annual leave is defined in subsection 26AC(4) of the *Income Tax Assessment Act 1936* to mean:

- leave described as annual leave, recreation leave or annual holidays which a person has an entitlement to under the conditions of employment specified in:
  - a law of the Commonwealth or of a State or Territory;
  - an award, determination or industrial agreement in force under any such law;
  - a contract of employment; or
  - the terms of appointment to an office;
- leave not described as annual leave, recreation leave or annual holidays which a person has an entitlement to under the relevant conditions of employment but which is essentially the same as annual leave, recreation leave or annual holidays; and
- leave that is granted as a privilege (rather than an entitlement) which is determined by reference to matters similar to those to which entitlements to annual leave, recreation leave or annual holidays are ordinarily determined.

How are payments in respect of unused annual leave taxed under the current law?

4.5 Lump sum payments made on or after 16 August 1978 in consequence of termination of employment in respect of unused annual leave are included in a taxpayer's assessable income under section 26AC.

What rate of tax applies to unused annual leave payments?

4.6 A rebate is available under section 159SA to ensure that payments in respect of unused annual leave included in a taxpayer's assessable income under section 26AC are taxed at a rate not exceeding 30% plus medicare levy.

How are payments of this nature taxed on the death of an employee?

4.7 If a payment of this nature is made on the death of an employee, no tax is payable on the amount received directly by a beneficiary or by the trustee of the deceased's estate (subsection 101A(2)).

What is the rate of tax instalment deductions on these payments?

4.8 Subsection 221C(1AB) allows for tax instalment deductions to be taken out at special rates on amounts representing unused annual leave. Regulation 80 of the Income Tax Regulations specifies that tax instalment deductions are to be taken out of these amounts at a rate of 31.25%.

Payments in respect of unused long service leave

What is long service leave?

4.9 Long service leave is defined in subsection 26AD(8) to mean:

- long service leave, long leave, furlough, extended leave or leave of a similar kind (however described) to which a person has an entitlement under the conditions of employment specified in:
  - a law of the Commonwealth or of a State or Territory;
  - an award, determination or industrial agreement in force under any such law;
  - a contract of employment; or
  - the terms of appointment to an office;
- leave (other than annual leave) to which a person has an entitlement under a scheme or arrangement which has allowed the employer to secure an exemption from obligations to comply with a law of the Commonwealth or of a State or Territory relating to long service leave, long leave, furlough, extended leave or leave of a similar kind (however described); and
- leave that is granted as a privilege (rather than an entitlement) which is determined by reference to matters similar to those to which entitlements to long service leave, long leave, furlough, extended leave or leave of a similar kind (however described) are ordinarily determined.

How are payments in respect of unused long service leave taxed under the current law?

4.10 Lump sum payments made on or after 16 August 1978 in consequence of termination of employment in respect of unused long service

leave are included in a taxpayer's assessable income under section 26AD. The amount included in assessable income depends on whether or not the eligible service period to which the long service leave relates commenced on or after 16 August 1978.

What is the eligible service period?

4.11 Broadly speaking, eligible service period is defined in subsection 26AD(7) to mean:

- if the taxpayer has not used any long service leave prior to retirement - the period by reference to which the lump sum amount is calculated; or
- if the taxpayer has used some of his or her long service leave prior to retirement - the period by reference to which the long service leave used by the taxpayer was calculated and the period on which the lump sum amount is calculated.

How much of an unused long service leave payment is included in assessable income if the eligible service period commenced on or after 16 August 1978?

4.12 If a taxpayer's eligible service period commenced on or after 16 August 1978, the whole amount he or she receives on termination of employment in respect of unused long service leave is included in his or her assessable income (subsection 26AD(2)).

How much of an unused long service leave payment is included in assessable income if the eligible service period commenced before 16 August 1978?

4.13 If a taxpayer's eligible service period commenced before 16 August 1978:

- the whole amount he or she receives on termination of employment in respect of unused long service leave that accrued on or after 16 August 1978 is included in his or her assessable income (subsection 26AD(3) and subsection 26AD(4)); and
- 5% of any amount he or she receives on termination of employment in respect of unused long service leave that accrued before 16 August 1978 is included in his or her assessable income (subsection 26AD(5)).

What rate of tax applies to unused long service leave payments?

4.14 Ordinary rates of tax apply to 5% of that part of any payment in respect of unused long service leave that accrued before 16 August 1978 which is included in a taxpayer's assessable income under subsection 26AD(5).

4.15 A rebate is available under section 159SA to ensure that payments in respect of unused long service leave that accrued on or after 16 August 1978 which are included in a taxpayer's assessable income under subsections 26AD(2), (3) or (4) are taxed at a rate not exceeding 30% plus medicare levy.

How are payments of this nature taxed on the death of an employee?

4.16 If a payment of this nature is made on the death of an employee, no tax is payable on the amount received directly by a beneficiary or by the trustee of the deceased's estate (subsection 101A(2)).

What is the rate of tax instalment deductions on these payments?

4.17 Subsection 221C(1AB) allows for tax instalment deductions to be taken out at special rates on assessable retirement amounts. Assessable retirement amounts are defined in paragraph 221A(2)(a) to be any amount included in a taxpayer's assessable income under section 26AD. The amount included in assessable income under section 26AD is 5% of any amount accrued before 16 August 1978 and the whole of the amount accrued on or after 16 August 1978. Regulation 80 of the Income Tax Regulations specifies that tax instalment deductions are to be taken out of these amounts at a rate of 31.25%.

Explanation of the amendments

Unused annual leave payments

4.18 Lump sum payments made on or after 18 August 1993 in consequence of termination of employment in respect of unused annual leave will continue to be included in a taxpayer's assessable income under section 26AC.

4.19 In most circumstances unused annual leave payments will be included in a taxpayer's assessable income and taxed at ordinary rates.

4.20 However, if the payment is a *bona fide redundancy amount*, an *early retirement scheme amount* or an *invalidity amount* the rate of tax payable on unused annual leave payments will be limited to a maximum of 30% plus medicare levy. ***[Clause 50; amended definition of eligible assessable income in section 159S]***

Bona fide redundancy amounts

4.21 A payment will be a *bona fide redundancy amount* if it is paid to a person because of his or her dismissal from employment where:

- the dismissal was because of the bona fide redundancy of the person. Bona fide redundancy has the same meaning as in section 27F. Broadly speaking, dismissal carries with it the concept that the termination of employment is involuntary on the employee's part - that is, it will be instigated by the employer. However, it also includes the notion of constructive dismissal where an employer places an employee in a position in which the employee has little option but to tender his or her resignation. Redundancy is the situation where an employer no longer requires employees to carry out work of a particular kind or to carry out work of a particular kind at the same location. Redundancy does not extend to the dismissal of an employee for personal or disciplinary reasons or because the employee has been inefficient;

- the termination time was before the *last retirement date* in relation to the employment. The *last retirement date* is defined in subsection 27A(1) to mean the time that, under the conditions of employment, the employee's service would have ordinarily terminated or the employee's 65th birthday, whichever is earlier; and

- at the time of dismissal there was no agreement between the person and the employer or between the employer and another person to subsequently employ the person.

[Clause 50]

Early retirement scheme amounts

4.22 A payment will be an early retirement scheme amount if it is paid to a person on the termination of employment where:

- the termination was in accordance with an approved early retirement scheme in terms of section 27E; and

- the termination time was before the last retirement date in relation to the employment. The last retirement date is defined in subsection 27A(1) to mean the time that, under the conditions of employment, the employee's service would have ordinarily terminated or the employee's 65th birthday, whichever is earlier; and

- at the time of dismissal there is no agreement between the person and the employer or between the employer and another person to subsequently employ the person.

[Clause 50]

Invalidity amounts

4.23 A payment made to a person before 1 July 1994 will be an *invalidity amount* if it is paid to the person on termination of employment where that person's employment is terminated because of physical or mental incapacity to engage in that employment.

4.24 A different rule applies if the payment is made on or after 1 July 1994. In this case the person's employment must be terminated because of disability and two legally qualified medical practitioners have certified that the disability is likely to result in the person being unable ever to be employed in a capacity for which he or she is reasonably qualified because of training, education or experience.

4.25 In either case, the termination time must be before the last retirement date (as defined in subsection 27A(1)) in relation to the employment. That is, the employment must be terminated before the date on which the person's employment would necessarily have ended but for the invalidity.

[Clause 50]

Unused long service leave payments

4.26 Lump sum payments made on or after 18 August 1993 in consequence of termination of employment in respect of unused long service leave will be included in a taxpayer's assessable income in full unless the payment is an *age 55 or special termination amount* and the eligible service period in relation to the unused long service leave commenced before 16 August 1978. ***[Clause 49; amended paragraph 26AD(2)(b)]***

4.27 An *age 55 or special termination amount* is an amount that:

- is paid to a taxpayer who was aged 55 or more on 17 August 1993; or
- is a *bona fide redundancy amount*, an *early retirement scheme amount* or an *invalidity amount* within the meaning of section 159S (see paragraphs 4.21 to 4.25 for an explanation of these terms).

[Clause 49; new subsection 26AD(14)]

4.28 If the payment is an *age 55 or special termination amount* and the eligible service period in relation to the unused long service leave commenced before 16 August 1978, the payment will continue to be broken into its pre-16 August 1978 and post-15 August 1978 components. The amount included in the taxpayer's assessable income will be:

- the whole amount he or she receives on termination of employment in respect of unused long service leave that accrued on or after 16 August 1978 (subsection 26AD(3) and subsection 26AD(4)); and
- 5% of any amount he or she receives on termination of employment in respect of unused long service leave that accrued before 16 August 1978 (subsection 26AD(5)).

[Clause 49]

4.29 In most circumstances the assessable part of unused long service leave payments will be included in a taxpayer's assessable income and taxed at ordinary rates. This will always be the case for that part of an unused long service leave payment of which only 5% is assessable (that is, amounts that are included in assessable income under subsection 26AD(5))

4.30 However, if the payment is a *bona fide redundancy amount*, an *early retirement scheme amount* or an *invalidity amount* the rate of tax payable on that part of the unused long service leave payment that is included in assessable income in full under subsection 26AD(2), (3) or (4) will be limited to a maximum of 30% plus medicare levy. The conditions for a payment to qualify as a *bona fide redundancy amount*, an *early retirement scheme amount* or an *invalidity amount* are described in paragraphs 4.21 to 4.25. ***[Clause 50; amended definition of eligible assessable income in section 159S]***

Application of the proposed amendments

4.31 The amendments made by Clause 49 apply to amount paid on or after 18 August 1993. Subject to the transitional arrangements in Clause 52, the amendments made by Clause 50 apply to assessments for the 1993-94 year of income and all later years of income ***[Clause 51]***.

4.32 **Clause 52** amends the definition of *eligible assessable income* in section 159S, in respect of assessments for the 1993-94 year of income, so that the section 159SA rebate applies to an amount paid before 18 August 1993 that is included in a person's assessable income in full in respect of unused annual leave under section 26AC or in respect of unused long service under subsections 26AD(2), (3) and (4). It also applies to such an amount paid on or after 18 August 1993 only if the amount is a *bona fide redundancy amount*, an *early retirement scheme amount*, or an *invalidity amount*.

Summary of tax treatment of unused leave payments

4.33 Taxpayers aged 55 or more on 17 August 1993 who receive a payment in respect of unused annual leave or unused long service leave paid on termination of employment (apart from those who receive a *bona fide*

redundancy amount, an *early retirement scheme amount* or an *invalidity amount*) will be taxed as follows:

- the whole amount of any unused annual leave payments will be included in assessable income and taxed at marginal rates;
- 5% of the pre-16 August 1978 component of any unused long service leave payment will be included in assessable income and taxed at marginal rates; and
- the whole amount of the post-15 August 1978 component of any unused long service leave payment will be included in assessable income and taxed at marginal rates.

Example

4.34 Nicholas retires from his employment at the age of 60 on 16 February 1994. He receives a payment in respect of unused annual leave of $2 500 and a payment in respect of unused long service leave of $40 000. He has not used any long service leave in the past. Nicholas has been working for the same employer for 35 years. Therefore, he has 19 years and 6 months service prior to 16 August 1978. As Nicholas was aged over 55 on 17 August 1993, he will retain the concessional treatment that applies to the pre-16 August 1978 component of his unused long service leave payment. However, he will not be entitled to a rebate to limit the maximum rate of tax payable on the amount included in his assessable income in full to 30% plus medicare levy. Nicholas will include the following amounts in his assessable income for the 1993-94 year:

Unused annual leave	$2 500
Unused long service leave	
5% x $22 286 (ie, 19.5/35 x $40 000)	$1 114
($40 000 - $22 286)	$17 714

4.35 Taxpayers who receive a payment in respect of unused annual leave or unused long service leave paid on termination of employment which includes a *bona fide redundancy amount*, an *early retirement scheme amount* or an *invalidity amount* (including taxpayers aged 55 or more on 17 August 1993) will be taxed as follows:

- the whole amount of any unused annual leave payments will be included in assessable income and taxed subject to a maximum rate of 30% plus medicare levy;

- 5% of the pre-16 August 1978 component of any unused long service leave payment will be included in assessable income and taxed at marginal rates; and
- the whole amount of the post-15 August 1978 component of any unused long service leave payment will be included in assessable income and taxed subject to a maximum rate of 30% plus medicare levy.

Example

4.36 Abiona accepts an offer from her employer under an approved early retirement scheme. She leaves her employment on 16 August 1994 and receives a payment in respect of unused annual leave of $4 000 and a payment in respect of unused long service leave of $28 000. She has not used any long service leave in the past. Abiona, who turned 55 years of age in July 1993, has been working for the same employer for 26 years. Therefore, she has 10 years service prior to 16 August 1978. As the amounts paid to Abiona in respect of unused annual leave and unused long service leave are *early retirement scheme amounts*, she will retain the concessional treatment that applies to the pre-16 August 1978 component of her unused long service leave payment and will also be entitled to a rebate to limit the maximum rate of tax payable on the amount included in her assessable income in full to 30% plus medicare levy. Abiona will include the following amounts in her assessable income for the 1993-94 year:

Unused annual leave	$4 000
Unused long service leave	
5% x $10 769 (ie, 10/26 x $28 000)	$538
($28 000 - $10 769)	$17 231

4.37 Abiona will be entitled to a section 159SA rebate so that the rate of tax payable on the $21 231 included in her assessable income in full in respect of unused annual leave and unused long service leave will not exceed 31.4%.

4.38 All other taxpayers who receive a payment in respect of unused annual leave or unused long service leave paid on termination of employment will be taxed as follows:

- the whole amount of any unused annual leave payments will be included in assessable income and taxed at marginal rates;
- the whole amount of any unused long service leave payment will be included in assessable income and taxed at marginal rates.

Example

4.39 Saul resigns from his employment on 25 June 1994. He receives a payment in respect of unused annual leave of $3 000 and a payment in respect of unused long service leave of $16 000. He has not used any long service leave in the past. Saul is 45 years of age and has been working for the same employer for 20 years (including some service prior to 16 August 1978). The whole of the amount received by Saul will be included in his assessable income in full. Therefore, Saul will include the following amounts in his assessable income for the 1993-94 year:

Unused annual leave	$3 000
Unused long service leave	$16 000

4.40 Tax instalment deductions will continue to be taken out of these amounts at special rates.

4.41 If a payment of this nature is made on the death of an employee, it will continue to be tax free in the hand's of the beneficiary or the trustee of the deceased's estate.

CHAPTER FIVE *Credit Unions*

Summary of proposed amendments

5.1 ***Purpose of amendments:*** To phase out the current exemption from tax provided by section 23G of the *Income Tax Assessment Act* (the Principal Act) for income in the nature of interest paid to credit unions by their non-corporate members in respect of loans made to those members and to allow credit unions to be taxed as co-operatives.

5.2 ***Date of effect:*** The amendments will come into effect from the date upon which the Bill receives Royal Assent. They will remove the exemption for large credit unions (those with total gross assets in excess of $30 million as at 30 June 1993) and allow them to be taxed as co-operatives or companies, with effect from the 1994-95 year of income, subject to a concessional tax rate of 20% for the 1994-95, 1995-96 and 1996-97 years of income.

5.3 The amendments will remove the exemption for all other credit unions and allow them to be taxed as co-operatives or companies, with effect from the 1995-96 year of income, subject to a concessional tax rate of 20% for the 1995-96 and 1996-97 years of income.

Background to the legislation

5.4 Section 23G of the Principal Act currently provides that income in the nature of interest received by an approved credit union from its non-corporate members in respect of loans made to those members is exempt from income tax.

5.5 Section 23G was enacted to overcome the decision in *Sydney Water Board Employees Credit Union Ltd v. FC of T* 73 ATC 4129 where the High Court held that the principle of mutuality did not apply to interest paid to the credit union by its members in respect of loans made to them by the credit union, and that the interest was assessable income in the hands of the credit union.

5.6 This statutory exemption was justified on the basis that credit unions satisfied a social need for finance not provided at that time by other financial institutions. However, since financial deregulation, this justification is no longer valid. The range of personal financial services provided by credit unions is provided also by a wide range of other bodies which receive no tax concessions.

5.7 In order to ensure equity and consistency of tax treatment with other financial institutions, the law will be amended to remove the exemption. In addition, the law will be amended to allow credit unions to be taxed as co-operatives if they satisfy the requirements of section 117 of the Principal Act.

5.8 The proposed amendments initially will reduce the competitive advantage enjoyed by credit unions by taxing them as co-operatives or companies at a concessional rate of 20% until and including the 1996-97 year of income, after which they will be taxed at the full corporate rate.

5.9 Large credit unions (those with total gross assets greater than $30 million as at 30 June 1993) will be liable to pay tax at the concessional rate of 20% with effect from the 1994-95 year of income. All other credit unions will be liable to pay tax at the concessional rate of 20% with effect from the 1995-96 year of income. This will allow smaller credit unions an additional year to prepare for the introduction of taxation. All credit unions then will be liable for the full corporate tax rate for the 1997-98 year of income and all later years of income.

Explanation of proposed amendments

5.10 Division 10 of Part 6 the Bill will amend section 6 ***[Clause 62]***, section 23G ***[Clause 64]***, section 117 ***[Clause 65]*** and section 119 ***[Clause 66]*** of the Principal Act and will introduce new section 6H ***[Clause 63]*** into the Principal Act.

Object of Division

5.11 The object of the proposed amendments is to phase out the special tax treatment of credit unions ***[Clause 61]***.

Interpretation

5.12 Subsection 6(1) of the Principal Act is amended by inserting a definition for 'transitional credit union' ***[Clause 62]***. That term is defined as having the meaning given by new section 6H of the Principal Act, and it is used in amended sections 23G and 117 of the Principal Act and in amended section 23 of the *Income Tax Rates Act 1986*.

What is a 'transitional credit union'?

5.13 For the purposes of the Principal Act, a credit union is a transitional credit union in relation to a year of income if the year of income is the 1994-95 year of income, the 1995-96 year of income or the 1996-97 year of income and it is a designated large credit union ***[New paragraph 6H(1)(a)] [Clause 63]***.

5.14 This means that credit unions with total gross balance sheet assets of more than $30 million as at 30 June 1993 will be liable to pay tax at the concessional tax rate of 20% for the 1994-95, 1995-96 and 1996-97 years of income and will be liable to pay the full corporate rate of tax for the 1997-98 year of income and all later years of income.

5.15 A credit union is also a transitional credit union in relation to a year of income if the year of income is the 1995-96 or the 1996-97 year of income and it is not a designated large credit union ***[New paragraph 6H(1)(b)] [Clause 63]***.

5.16 This means that a credit union with total gross balance sheet assets of $30 million or less as at 30 June 1993, or a credit union that was not in existence as at 30 June 1993, will be liable to pay tax at the concessional rate of 20% for the 1995-96 and 1996-97 years of income, and will be liable to pay the full corporate rate of tax for the 1997-98 year of income and all later years of income.

What is a 'designated large credit union'?

5.17 A designated large credit union is a credit union with total gross balance sheet assets as at 30 June 1993 of more than $30 million. Total gross assets are to be determined on the basis of the amount of total gross assets that would have been disclosed in the audited balance sheet of a credit union for the last ordinary accounting period that ended before 1 July 1993 if its accounts had been prepared in accordance with generally accepted accounting principles ***[New subsection 6H(2)] [Clause 63]***

5.18 In other words, if the unaudited accounts of a credit union disclose total gross assets of $30 million or less and the audited accounts indicate that total gross assets actually exceed $30 million, the credit union will be a designated large credit union for the purposes of the Principal Act.

Definitions

5.19 Proposed new section 6H uses the terms 'accounts', 'accounting period' and 'credit union'. A definition of each of these terms for the purposes of the new section is included in the proposed amendments ***[New subsection 6H(3)] [Clause 63].***

5.20 The term 'accounts', in relation to a credit union referred to in new section 6H, is defined to mean accounts prepared by or on behalf of a credit union for the purpose of providing an annual report to the shareholders of the credit union.

5.21 The term 'accounting period', in relation to a credit union referred to in new section 6H, is defined to mean the end of its ordinary accounting period when the balance of its accounts is struck.

5.22 The term 'credit union' is defined to have the same meaning given to it in section 23G of the Principal Act.

Removal of exemption of interest received by credit unions

5.23 Section 23G of the Principal Act is amended to provide that subsection 23G(2) does not apply to a credit union in relation to a year of income if the credit union is a transitional credit union in relation to that year of income, or if the year of income is later than the 1996-97 year of income ***[New subsection 23G(2A)] [Clause 64].***

5.24 This means that if a credit union is a transitional credit union in relation to a year of income, it will no longer be entitled to the exemption provided under section 23G of the Principal Act.

Credit unions to be allowed to be taxed as co-operatives or companies

5.25 Section 117 of the Principal Act is amended to provide that subsection 117(2) will not apply to a credit union in relation to a year of income if the company is a transitional credit union in relation to that year of income or if the year of income is later than the 1996-97 year of income ***[New subsection 117(3)] [Clause 65].***

5.26 Subsection 117(2) of the Principal Act currently provides that credit unions which enjoy the exemption provided for by section 23G of the Principal Act are not eligible to be taxed as co-operative companies. However, when the exemption no longer applies to a credit union, it will be allowed to be taxed as a co-operative if it satisfies the requirements specified in subsection 117(1).

Application of the mutuality principle to interest received by credit unions in respect of loans to members

5.27 Section 119 of the Principal Act will be amended to provide that if a credit union receives a payment of, or in the nature of interest, the payment is taken to be for the rendering of services ***[New subsection 119(2)] [Clause 66]***. New subsection 119(2) is not intended to limit the generality of subsection 119(1) ***[New subsection 119(3)] [Clause 66]***.

5.28 It is clear from the High Court's decision in the *Sydney Water Board Employees Credit Union* case that interest received by a credit union from its members in respect of loans made to those members is not mutual income and is assessable income of the credit union. Nevertheless, the proposed amendment to section 119 of the Principal Act is intended to put beyond doubt that any payments of, or in the nature of interest, received by any credit union in respect of loans to its members is assessable income.

Application of the amendment to section 119

5.29 Proposed new subsection 119(2) is expressed to apply only to assessments in respect of the 1994-95 year of income and later years of income ***[Clause 67]***. This is to ensure that the provision cannot be construed as having effect in relation to any year of income prior to the enactment of subsection 117(2).

Amendments to Income Tax Rates Act 1986

Summary of proposed amendments

5.30 ***Purpose of amendments:*** To provide a concessional tax rate of 20% for a credit union in the years of income in which it is a transitional credit union.

5.32 ***Date of effect:*** The amendments will come into effect from the date upon which the Bill receives Royal Assent and will apply to a credit union which is a transitional credit union in respect of the 1994-95, 1995-96 or 1996-97 years of income.

Explanation of proposed amendments

5.33 Division 3 of Part 7 of the Bill will amend section 23 of the *Income Tax Rates Act 1986* (the Principal Act).

Object of the Division

5.34 The object of this Division is to provide a concessional rate of tax for credit unions during the transitional period after which they become liable to pay tax at the full corporate rate ***[Clause 73]***.

Rates of tax payable by companies

5.35 Section 23 of the Principal Act will be amended to include a reference to a 'transitional credit union' ***[New paragraph 23(2)(e)] [Clause 74]***.

5.36 Section 23 of the Principal Act will be amended also to provide that the rate of tax payable by a transitional credit union in relation to the year of income is 20% ***[New subsection 23(4E)][Clause 74]***.

5.37 This means that during the relevant transitional period, a credit union will be liable to tax at the concessional rate of 20%.

CHAPTER SIX *Taxation of Friendly Societies and Other Registered Organisations*

Summary of amendments

6.1 ***Purpose of the amendments:*** The proposals in this Bill concerning friendly societies and other registered organisations will basically put the life insurance and similarly taxed business of those organisations on the same taxation footing as that applying to similar business conducted by life companies ***[Clause 57].***

Increase in rate of tax paid by registered organisations

6.2 At present, the rate of tax applicable to the eligible insurance business of registered organisations is 30%. The rate of tax paid by life companies on the same business is 39% ***[Clause 69].*** The rates are to be brought into line on an incremental basis over 3 years so that both will be paying the same rate from the 1996-97 year of income. The rate of tax applicable is provided for in paragraph 23(4)(b) of the *Income Tax Rates Act* 1986.

Deductions for expenses incurred in gaining certain premiums

6.3 With the alignment of registered organisation and life company tax rates, registered organisations are to be allowed deductions, in the same way as life companies, for the expenses they incur in gaining the investment component of ordinary life insurance premiums ***[Clause 53].*** **New section 116HAA** is to be inserted to permit this deduction from 1 July 1994.

Increase in rebate for assessable friendly societies bonuses

6.4 The rebate provided for by section 160AAB in respect of friendly society life insurance bonuses included in a policy holder's assessable income is to be increased on a commensurate basis with the increased tax rates for friendly societies ***[Clause 57].*** However, the increased amount of rebate will apply only from 1 July after the year of income in which an increased rate of tax applies to friendly societies.

Background to the legislation

6.5 Two amendments which are contained in the Bill relate to friendly societies and other registered organisations. These measures are intended to bring the taxation of the life insurance business, and other similarly taxed business, of those bodies into line with that applying to the same business conducted by life insurance companies. Another amendment will increase the rebate available to friendly society life insurance policy holders who are assessed on relevant bonuses.

6.6 The first of the two amendments applicable to registered organisations will incrementally increase the rate of tax presently applying to their eligible insurance business so that it will eventually equal the tax rate paid by life companies on similar business. The increase is to be introduced over 3 years at the rate of 3 percentage points per year commencing with the 1994-95 income year, so that both bodies will pay the same rate from the 1996-97 income year. The amendment involves changes to paragraph 23(4)(b) of the *Income Tax Rates Act* 1986.

6.7 Deductions are available to life companies for the expenses they incur in getting in certain ordinary life insurance premiums. These deductions have not been available to registered organisations because of their lower tax rate. With the alignment of rates, an amendment is necessary to allow registered organisations to deduct their expenses of getting in similar insurance premiums in the same way as life companies are allowed such deductions. Basically, the premiums involved are those that, when invested, produce income which is subject to Australian income tax in the hands of the policy issuer. The provision, **new section 116HAA**, which is in the same terms as sections 111A, 111AA and 116HA of the *Income Tax Assessment Act* 1936, will allow the same sort of deductions. It will apply to costs of getting in premiums such as commissions and costs of promoting the particular kind of insurance.

6.8 The final amendment connected with these measures will increase the rebate provided by section 160AAB to policy holders who include in their assessable income, amounts in respect of bonuses received on life policies issued by friendly societies. Section 26AH deals with certain life policy bonuses received within 10 years and sets out which bonuses are to be included in assessable income.

6.9 Section 26AH may apply to most bonuses paid on any life assurance policy, regardless of what type of body issued the policy. However, the body which issued the policy would have paid tax on the income out of which the bonus was paid. To compensate policy holders for that tax when a bonus is included in assessable income, section 160AAB provides a rebate at the rate of tax paid by the body which issued the policy.

The rebate is allowed to ensure tax is not paid twice on the income which gave rise to the bonus; once in the hands of the friendly society and a second time when the amount of the bonus is included in the policy holder's assessable income. The increased rebate is to be commensurate with the increased rate of tax paid by friendly societies, but an increased rebate is to be available only from 1 July after the year of income in which an increased tax rate applies to friendly societies.

Explanation of the amendments

Increase in rate of tax paid by registered organisations

6.10 Division 2 of Part 7 of the Bill deals with changes in the tax rates applicable to registered organisations. Subdivisions B, C and D propose amendments to paragraph 23(4)(b) of the Principal Act (that is the *Income Tax Rates Act* 1986) to increase the rate of tax in respect of the eligible insurance business component ('EIB component') of the taxable income of a registered organisation. That component basically comprises the taxable life insurance and accident and disability business of registered organisations, the similar business of which is taxed at 39% in the hands of life companies.

6.11 Subdivision B provides for the rate of tax for the EIB component to be increased to 33% for the 1994-95 year of income ***[Clause70]***. Subdivision C provides for the rate of tax for the EIB component to be increased to 36% for the 1995-96 year of income ***[Clause 71]***. Subdivision D provides for the rate of tax for the EIB component to be increased to 39% for the 1996-97 and subsequent years of income ***[Clause72]***.

Deductions for expenses incurred in gaining certain premiums

6.12 Division 8 of Part 6 of the Bill proposes the insertion of a section, **new section 116HAA**, into the Principal Act (the *Income Tax Assessment Act* 1936) to allow registered organisations a deduction for their expenses of getting in certain life insurance premiums, in the same way as life companies are allowed those deductions ***[Clause 55]***. The Division also proposes the insertion of a number of definitions necessary for the operation of the new section ***[Clause 54]***. The proposed new section is to apply to expenditure incurred by a registered organisation on or after 1 July 1994 ***[Clause 56]***.

6.13 Proposed **new section 116HAA** is in similar terms to sections 111A, 111AA and 116HA. **New section 116HAA** will allow the same sort of deductions; it will apply to costs of getting in premiums such as commissions and costs of promoting the particular kind of insurance.

6.14 **New subsection 116HAA(1)** limits the type of premiums which are intended to come within **new section 116HAA**. Only premiums received by registered organisations which, when invested, produce income which is liable to Australian tax are intended to come within the section, provided they are not dealt with elsewhere. Consequently, **new subsection 116HAA(1)** excludes:

- superannuation premiums (at paragraph (a)) as they are dealt with under section 116HA;
- premiums received in respect of eligible policies (at paragraph (b)) as they do not produce assessable income;
- specified roll-over amounts (at paragraph (c)); and
- premiums received in respect of eligible non-resident policies or which are exempt from tax under section 23AH (at paragraphs (d) & (e) respectively) as they would not produce income which is assessable in Australia.

6.15 **New subsection 116HAA(2)** deems the premiums to which the section applies to be assessable income solely for the purpose of determining the deductions allowable to registered organisations. As indicated above, expenses of getting in premiums intended to be deductible under the section are limited to costs such as commissions and costs of promoting the particular kind of insurance.

6.16 **New subsection 116HAA(3)** provides that the section does not apply to premiums derived by a registered organisation unless the organisation obtains a certificate from an authorised actuary. The certificate will need to be obtained before the date of lodgment of the organisation's relevant return of income, or within such further time as the Commissioner allows, and to certify the amount of the investment component of premiums to which proposed **new subsection 116HAA(1)** will apply. The certificate will need to be retained for 5 years as required by section 262A.

6.17 An 'authorised actuary' is defined in **new subsection 116HAA(4)** to mean a Fellow or an Accredited Member of the Institute of Actuaries of Australia.

Increase in rebate for assessable friendly society bonuses

6.18 Division 9 of Part 6 of the Bill proposes to increase the current level of rebate provided by section 160AAB in respect of friendly society bonuses included in assessable income under section 26AH. The increase is to be commensurate with the proposals in the Bill for increased tax rates for

friendly societies. However, an increased rate will not be available until 1 July after the year of income after the year of increase for friendly societies.

6.19 The amount of rebate to be allowed in respect of policies issued by friendly societies is presently set out in paragraph (a) of the definition of 'statutory percentage' in subsection 160AAB(1). Subdivision B of Division 9 of the Bill increases the amount to 33% from 1 July 1995 ***[Clause58]*** and subdivision C increases the amount to 36% from 1 July 1996 ***[Clause59]***. Subdivision D omits the definition of 'statutory percentage' and increases to 39% the amount of rebate applicable to friendly society bonuses from 1 July 1997 ***[Clause 60]***. Consequently, the definition is no longer required. Any references in section 160AAB to 'the statutory percentage' are also omitted and replaced with '39%'.

CHAPTER SEVEN *Medicare Levy Low Income Thresholds*

Summary of amendments

7.1 ***Purpose of the amendment:*** To amend the *Medicare Levy Act 1986* (the Act) to raise the low income thresholds for individuals, married couples and sole parents ***[Clause 75]***. Persons with a taxable income below the Medicare levy low income thresholds are not required to pay the levy.

7.2 ***Date of effect:*** 1 July 1993 ***[Clause 79]***

Background to the legislation

7.3 Medicare levy is imposed on a person's taxable income at a rate prescribed in the Act (section 6). Since 1 July 1993 the rate has been 1.4%.

7.4 Each year the Government reviews the low income thresholds and decides whether it is appropriate to review them.

7.5 The levy is not payable if a person's taxable income does not exceed the amount prescribed in the Act (subsection 7(1)). The present amount (that is, the low income threshold for individuals) is $11,887. However, if a person's income is greater than the low income threshold, but does not exceed $12,680, the amount of levy payable is 20% of the excess (subsection 7(2)).

Example

7.6 A taxpayer's taxable income in 1992-93 was $12,433. The amount of levy payable is $109.20 [20% of ($12,433 - $11,887)].

7.7 At the "shading-in point" of $12,680, the amount of levy calculated at 20% of the excess is the same as if the Medicare levy had been applied at the then normal rate of 1.25% to the person's taxable income.

7.8 Additionally, the levy is payable if a person's family income exceeds the "family income threshold" and:

- the person is married (or in a *de facto* relationship) on the last day of the income year; or
- the person is entitled to a rebate for a child-housekeeper, a sole parent rebate or a housekeeper rebate.

7.9 The relevant "family income" is the sum of the taxable incomes of the person and of the person's partner. In other cases, it is the taxable income of the person.

7.10 The family income threshold is prescribed as $20,070 plus $2,100 for each dependent child or student (subsection 8(5)).

Explanation of the amendments

7.11 The low income threshold for individuals is to be increased to $12,688 (up from $11,887) ***[Clause 77].***

7.12 The range of taxable income over which the levy is shaded in will be raised. The new range will be income exceeding $12,688 but not exceeding $13,643 (up from $11,887 and $12,680 respectively) ***[Clause 77].***

7.13 The family income threshold will be changed by increasing the base amount to $21,366 (up from $20,070) ***[Clause 78].*** There will be no change to the amount for each dependent child or student.

7.14 The 1993-94 low income thresholds and shading-in ranges will therefore be as shown in the following table:

Table Medicare levy low income thresholds and shading-in ranges

Category of taxpayer	No levy if taxable (or family) income does not exceed	Reduced levy if taxable (or family) income is within the range	Ordinary rate of levy where taxable (or family) income exceeds
Individual taxpayer	$12,688	$12,689-$13,643	$13,643
Married taxpayer with no child/students	$21,366	$21,367-$22,974	$22,974
Married taxpayer with:			
1 child/student	$23,466	$23,467-$25,214	$25,214
2 children/students	$25,566	$25,567-$27,454	$27,454
3 children/students	$27,666	$27,667-$29,694	$29,694
4 children/students	$29,766*	$29,767*-$31,934#	$31,934
For each additional child or student add:			
	*$2,100**		
	$2,240#		

CHAPTER EIGHT *Sales Tax: General Rate Increases*

Summary of proposed amendments

8.1 ***Purpose of amendments:*** To increase existing sales tax rates by 1% from 18 August 1993 and will be increased by a further 1% from 1 July 1995 ***[Clauses 80 and 87].***

Background to the legislation

8.2 Sales tax rates are set in Schedules to the *Sales Tax (Exemptions and Classifications) Act 1992* (E&C Act). Schedule 1 covers goods which are exempt from sales tax. Schedules 2 to 5 cover goods on which sales tax is payable. Each Schedule sets a different rate of sales tax for taxable dealings with the goods covered by that Schedule. The rates applicable under those Schedules are 10%, 15%, 20%, and 30% respectively.

Explanation of the amendments

8.3 The following table shows the Schedules to the E&C Act, the current rates of sales tax set by those schedules, the rates which will apply from 18 August 1993 and the rates which will apply from 1 July 1995.

SCHEDULE	EXISTING RATE	RATE FROM 18 AUGUST 1993	RATE FROM 1 JULY 1995
Schedule 1	Exempt	Exempt	Exempt
Schedule 2	10%	11%	12%
Schedule 3	15%	16%	17%
Schedule 4	20%	21%	22%
Schedule 5	30%	31%	32%
Schedule 6	Not applicable	45%	45%

8.4 Each rating Schedule will be amended to increase the rate set by that Schedule by one percentage point for taxable dealings occurring on or after 18 August 1993 ***[paragraph 92(a), Clauses 93, 94 and paragraph 95(a)]***.

8.5 The Bill will also insert a new Schedule (Schedule 6) which will apply to luxury motor vehicles. Schedule 6 will apply a 45% rate to those vehicles ***[Clauses 90 and 96]***. However, for each taxable dealing covered by Schedule 6, the *Sales Tax Assessment Act 1992* (The Assessment Act) will substitute a special taxable value (proposed section 42A). That special value will ensure that the 45% rate is only applied to that proportion of the taxable value that exceeds the motor vehicle luxury threshold ***[Clause 83]***.

8.6 The increased rates will be further increased by another percentage point from 1 July 1995. The rate, however, for luxury motor vehicles, will remain at 45% ***[Clauses 99 and 100 and Schedule]***.

8.7 Appendix A to the Assessment Act contains examples of the operation of the sales tax laws, including calculations of tax payable. The Bill will amend those examples so that they reflect the increased rates proposed to apply from 18 August 1993. A further set of amendments proposed to commence on 1 July 1995 will adjust those examples to reflect further rate increases proposed to apply from that later date ***[Clauses 85 and 99 and Schedule]***.

CHAPTER NINE *Sales Tax on Wine, Cider and Other Similar Beverages*

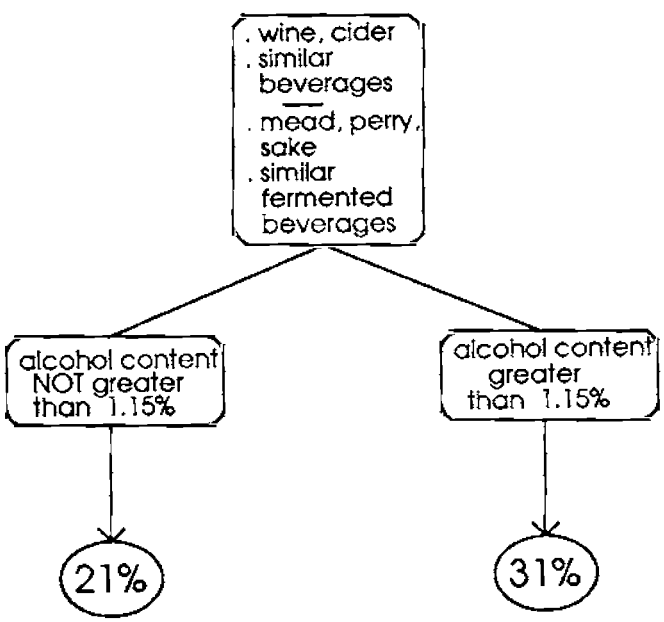
Summary of proposed amendments

9.1 ***Purpose of amendments:*** To increase the rates of tax on wine, cider and similar beverages:

(a) from 10% to 21%, if the beverages have a low alcohol content (not more than 1.15% by volume); and

(b) from 20% to 31%, if the beverages do not have a low alcohol content (more than 1.15% by volume) ***[Clauses 80 and 87].***

9.2 ***Date of effect:*** The amendments will apply to dealings with goods on or after 18 August 1993 ***[Clause 86].***



Background to the legislation

Low alcohol wine, cider etc.

9.3 Under the existing law, the following low alcohol beverages:

- Australian-made wine and cider, and beverages similar to wine and cider (such as wine coolers); and
- mead, perry, sake and other similar fermented beverages;

are taxed at the concessional rate of 10%. Goods are taken to be low alcohol if they contain no more than 1.15% by volume of alcohol.

9.4 **Note:** The expression "other similar fermented beverages" includes fruit wines and beverages fermented from plants such as vegetables, flowers and herbs marketed as vegetable wine etc.

9.5 Imported low alcohol wine and cider, however, is taxed at the general rate of 20%.

9.6 The 10% concessional rate does not apply to:

- beer, spirits, liqueurs or spirituous liquors; or
- beverages that contain beer, spirits (other than spirits for fortifying wine or other beverages), liqueurs or spirituous liquors.

Other wine, cider etc.

9.7 Under the existing law, the following alcoholic beverages:

- wine, cider and beverages similar to wine and cider (such as wine coolers); and
- mead, perry, sake and other similar fermented beverages;

are taxed at the general rate of 20%. Goods are taken to be alcoholic if they contain more than 1.15% by volume of alcohol.

Explanation of proposed amendments

9.8 The following table shows the range of alcoholic and low alcohol beverages whose rates of tax are proposed to be changed by this Bill together with the existing rates and proposed increased rates.

Beverage	Alcoholic or low alcohol	Australian or imported	Existing rate	Proposed rate (at 18/8/93)
Wine, cider & similar beverages	Alcoholic	Australian & imported	20%	31%
Wine & cider	Low alcohol	Australian	10%	21%
Wine & cider	Low alcohol	Imported	20%	21%
Beverages similar to wine & cider	Low alcohol	Australian & imported	10%	21%
Mead, perry, sake & other similar fermented beverages	Alcoholic	Australian & imported	20%	31%
Mead, perry, sake & other similar fermented beverages	Low alcohol	Australian & imported	10%	21%

9.9 Part 10 of the Bill will amend Schedule 2 to the Exemptions and Classifications (E&C) Act by deleting Item 15, which covers the following low alcohol beverages :

- wine and cider manufactured in Australia;
- beverages similar to wine or cider; and
- mead, perry, sake, and other similar fermented beverages.

Low alcohol beverages consist of no more than 1.15% by volume of alcohol *[Clause 92]*.

9.10 This will have the effect of increasing the tax on those beverages from 10% to the general rate (proposed by this Bill to be 21% from 18 August 1993).

9.11 Part 10 of the Bill will also amend Schedule 5 to the E&C Act by adding Item 15, which covers the following alcoholic beverages:

- wine, cider and beverages similar to wine or cider; and
- mead, perry, sake, and other similar fermented beverages.

9.12 Alcoholic beverages contain more than 1.15% by volume of alcohol ***[Clause 95]***.

9.13 This will have the effect of increasing the tax on those beverages from 20% to the second highest rate (proposed by this Bill to be 31% from 18 August 1993).

CHAPTER TEN *Sales Tax on Luxury Motor Vehicles*

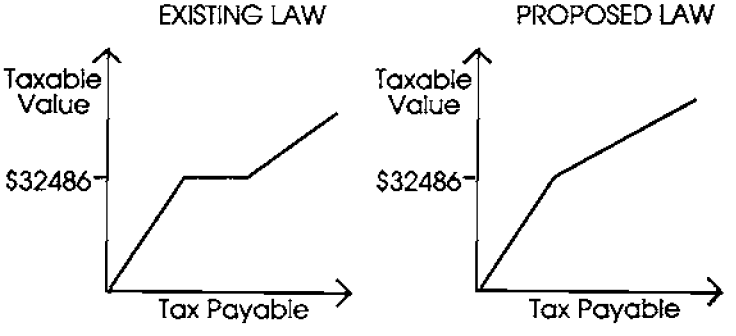
Summary of proposed amendments

10.1 ***Purpose of amendment:*** To change the effective rate of sales tax on luxury motor vehicles, so that:

(a) the portion of the wholesale value that does not exceed the luxury threshold will be taxed at the general rate of sales tax applicable to that kind of motor vehicle (ie. either 16% or 21%, depending on the classification of the vehicle); and

(b) a new rate of 45% will apply to the excess ***[Clauses 80 and 87].***

10.2 ***Date of effect:*** The change will apply to taxable dealings that occur with luxury motor vehicles on or after 18 August 1993 ***[Clause 97].***



Background to the legislation

10.3 Under the existing law arrangements, luxury motor vehicles are subject to sales tax at a rate of 30% on their full wholesale value. A luxury motor vehicle is a passenger motor car or station wagon which has a wholesale value in excess of the luxury motor vehicle threshold. That

threshold is calculated according to a formula that converts the motor vehicle depreciation limit (under the Income Tax law) to an equivalent wholesale value *[Clause 82]*. For the 1993-94 financial year, the luxury motor vehicle threshold is $32,486.46.

10.4 Passenger motor cars or station wagons which have a wholesale value below the luxury motor vehicle threshold are taxable at either 15% or 20% (depending on the classification of the motor vehicle).

10.5 However, once the wholesale value of the motor vehicle exceeds the luxury threshold, the 30% rate is applied to the full wholesale value of the vehicle. This has the effect of imposing an additional 15% or 10% rate of tax (as the case may be), on the sub-luxury component of the wholesale value of the luxury motor vehicle. For example, the sales tax payable on a passenger vehicle with a wholesale value of $32,486 is $4,873, but if the wholesale value is increased by $1 to $32,487, the sales tax increases to $9,746.

Explanation of proposed amendments

10.6 The purpose of introducing the split rates is to remove the sudden increase in tax that is payable on the sub-luxury component of the wholesale value of a motor vehicle when it exceeds the luxury threshold. The split rate will mean that all passenger vehicles will be taxable at either 16% or 21% up to the current luxury threshold of $32,486.46. After the threshold has been reached, each additional dollar of wholesale value will be subject to tax at the rate of 45%. This means that where the luxury threshold is exceeded eg. by $1, the additional tax payable will be 45 cents rather than $4,873 for 15% vehicles or $3,249 for 20% vehicles.

10.7 The amendments will insert a new Schedule (Schedule 6) in the Bill, which will apply sales tax at the rate of 45% on luxury motor vehicles. These are the same motor vehicles that are taxed under the existing law at 30%. The Bill will also make consequential amendments to the law to reflect the introduction of the new Schedule *[Clauses 89, 91, and 96]*

10.8 However, for all taxable dealings with luxury motor vehicles, the new law will substitute a special taxable value. The effect of that special value will be to apply a split rate to luxury motor vehicles *[Clause 83]*:

- the portion of the wholesale value of the motor vehicle that does not exceed the luxury threshold will be taxed at the general rate of sales tax applicable to that kind of motor vehicle (ie. 16% or 21%, depending upon the classification of the vehicle);

the portion of the wholesale value of the motor vehicle that does exceed the luxury threshold will be taxed at the new rate of 45%.

Example

10.9 Using the following information, the reduced taxable value method used to calculate the taxable value proposed in the Bill, and the effective split value method (for a motor vehicle with a pre-luxury threshold classification which will be at a rate of 16%), can be compared.

10.10 1993/4 Luxury motor vehicle depreciation limit:$48,415.00

Taxable value threshold: $32,486.46

Retail price of motor vehicle: $65,000.00

Equivalent wholesale value: $40,872.79

Split Rate 16%/45%		**Reduced Taxable Value**	
16% of $32,486.46	$5197.83	Taxable Value	$40,872.79
45% of $8,368.33	$3773.85	Reduction	$20,935.61
Tax payable	$8,971.68	Reduced Taxable Value	$19,937.18
		Tax payable	$8,971.73

10.11 **Note:** There is a minor variation which arises because the percentage figures specified in the law are rounded to the nearest third decimal point.

10.12 The amount of the reduction in the taxable value of a luxury vehicle will be calculated according to a formula:

- In the case of motor vehicles of a kind ordinarily taxed at 16%, the formula will be *[Clause 83]*:

  43.242% X **Motor vehicle depreciation limit for the financial year in which the taxable dealing happens.**

- In the case of motor vehicles of a kind ordinarily taxed at 21% (these are mainly off-road, four-wheel drive vehicles), the formula will be *[Clause 83]*:

35.787% X **Motor vehicle depreciation limit for the financial year in which the taxable dealing happens.**

10.13 While the more expensive luxury vehicles will not benefit from the change, vehicles which are presently priced just above the luxury wholesale value threshold of $32,486 will receive a significant sales tax reduction. For example, under the amendments the sales tax payable on a passenger vehicle taxable at the split rate of 16/45% which has a wholesale value of $32,500 will fall from $9750 to $5204. This saving will gradually decrease as the vehicle price increases because of the greater impact of the higher 45% rate. The tax benefit for a vehicle with a split rate of 16/45% and a wholesale value of $45,000 will only be $2671, the sales tax being reduced from $13,500 to $10829. The tax benefit will phase out when a vehicle has a retail price of just under $100,000. Vehicles sold at prices around $100,000 will incur more sales tax.

10.14 The percentages used to calculate the taxable value reduction for luxury motor vehicles will change on 1 July 1995 due to the general increase in all rates at that time. The new percentages will be 41.751% for vehicles to be taxed at the split rate of 17/45% and 34.296% for vehicles to be taxed at the split rate of 22/45%. ***[Schedule to Clause 99]***

Luxury motor vehicles for disabled persons

10.15 There are two sales tax exemptions (Items 96 and 97, E&C Act) that allow certain disabled persons to purchase motor vehicles free of sales tax. The exemption is, however, only available for vehicles with a taxable value at or below the luxury motor vehicle threshold. If a person otherwise covered by Item 96 or 97 purchases a luxury motor vehicle, tax is payable on the vehicle. However, the taxable value of the vehicle is reduced.

10.16 Under the existing law, the effect of the reduction is to exclude, from the amount of the tax payable on the vehicle, the amount of tax that would be payable if the value of the vehicle did not exceed the luxury threshold. In calculating that amount, the law assumes in all cases that the vehicle would be taxed at the rate of 20%. However, in most cases, the vehicle would only be taxed at 15%. Consequently, a person can receive a reduction greater than the amount of tax that would have been payable if the vehicle had not exceeded the luxury limit.

10.17 Under the changes proposed by this Bill, the effect of the reduction is to exclude, from the amount of tax payable, the actual amount of tax that would have been payable if the value of the vehicle did not exceed the luxury threshold. Effectively, the vehicle is exempted from that part of the taxable value to which the rates of 16% and 21% apply. Tax is only payable on that part of the taxable value that exceeds the luxury motor vehicle threshold. The tax rate for the taxable part will be 45%. ***[Clause 84]***

Example

10.18 An eligible person purchases a vehicle with a wholesale value of $40,000. The wholesale taxable value for the application of the luxury motor vehicle tax is $32,486.46 and this part of the taxable value will be exempt. Tax will be payable at the rate of 45% on the difference between $40,000 and the luxury tax threshold of $32,486.46. Tax payable will be $3381.09 (45% of $7513.54).

10.19 With a split rate approach it is now possible to provide the same benefit to all eligible persons, whether the rate is 16/45% or 21/45%. Irrespective of the kind of passenger motor vehicle purchased, the first $32,486.46 of taxable value will be treated as exempt. After that, each dollar of taxable value will be taxable at 45%.

Taxation (Deficit Reduction) Bill 1992

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Part 11 - Sales Tax Amendments to commence on 1 July 1995

* References to Principal Act or minor technical consequential amendments only; not specifically mentioned in the Explanatory Memorandum.

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