

HEALTH INSURANCE LEVY ACT 1978

No. 127 of 1978

An Act to impose a health insurance levy upon certain incomes.

BE IT ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:

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|--|---------------------|
| 1. This Act may be cited as the <i>Health Insurance Levy Act 1978</i> . ¹ | Short title |
| 2. This Act shall come into operation on the day on which it receives the Royal Assent. ¹ | Commence-
ment |
| 3. (1) In this Act, unless the contrary intention appears—
“Assessment Act” means the <i>Income Tax Assessment Act 1936</i> ;
“levy” means health insurance levy referred to in section 6. | Interpret-
ation |
| (2) In this Act, a reference to net income or taxable income shall be read as a reference to net income or taxable income, as the case may be, of the year of income. | |
| (3) For the purposes of this Act other than sub-section (2), the year of income that commenced on 1 July 1978 shall be deemed to be constituted by the period commencing on 1 July 1978 and ending on 31 October 1978. | |
| (4) A person shall be taken for the purposes of this Act to have been entitled to free medical treatment at a particular time if, at that time— | |
| (a) the person was entitled to free medical treatment in respect of every incapacity, disease or disabling condition by reason that the person was a member of the Defence Force or was a relative of, or was otherwise associated with, a member of the Defence Force; or | |
| (b) the person was entitled under any of the Repatriation Acts to free medical treatment in respect of every incapacity, disease or disabling condition. | |
| (5) Subject to the preceding provisions of this section, expressions used in this Act that are also used in Part VIIB of the Assessment Act have in this Act, unless the contrary intention appears, the same meanings as those expressions have in that Part of the Assessment Act. | |
| 4. The Assessment Act is incorporated, and shall be read as one, with this Act. | Incorpor-
ation |

Categories of
persons
liable to pay
levy

5. (1) For the purposes of the application of this Act, persons liable to pay levy (other than a person in the capacity of a trustee) shall be taken to be included at any relevant time during the year of income in one of 9 categories as provided by this section.

(2) If at a particular time a person is not a dependent wife and has a dependant or dependants, the person shall be taken to be included at that time—

- (a) in a case to which paragraph (b) does not apply—in the first category; or
- (b) if the person is a man who is not entitled to free medical treatment and is the dependent husband of a woman who is entitled to free medical treatment—in the second category.

(3) If at a particular time a person is not a dependent wife and does not have any dependants, the person shall be taken to be included at that time in the third category.

(4) If at a particular time a woman is a dependant wife and has a dependant or dependants, the woman shall be taken to be included at that time—

- (a) in a case to which neither paragraph (b) nor paragraph (c) applies—in the fourth category;
- (b) if the woman is entitled to free medical treatment and the man of whom she is the dependent wife is not entitled to free medical treatment—in the fifth category; or
- (c) if the woman is not entitled to free medical treatment and the man of whom she is the dependent wife is entitled to free medical treatment—in the sixth category.

(5) If at a particular time a woman is a dependent wife and does not have any dependants, the woman shall be taken to be included at that time—

- (a) in a case to which neither paragraph (b) nor paragraph (c) applies—in the seventh category;
- (b) if the woman is entitled to free medical treatment and the man of whom she is the dependent wife is not entitled to free medical treatment—in the eighth category; or
- (c) if the woman is not entitled to free medical treatment and the man of whom she is the dependent wife is entitled to free medical treatment—in the ninth category.

Imposition
of health
insurance
levy

6. Health insurance levy, to the extent that that levy is payable in accordance with Part VII B of the Assessment Act, is imposed in accordance with this Act at the rates applicable in accordance with this Act.

Rate of levy

7. (1) The rate of levy payable by a person upon a taxable income is 0.833%.

(2) The rate of levy payable by a person in the capacity of a trustee of a trust estate upon a share of the net income of the trust estate to which a beneficiary is presently entitled, being income in respect of which the trustee is liable to be assessed and to pay tax in pursuance of section 98 of the Assessment Act, is 0.833%.

(3) Subject to sub-section (4), the rate of levy payable by a person in the capacity of a trustee of a trust estate upon the net income of the trust estate or a part of that net income, being income in respect of which the trustee is liable to be assessed and to pay tax in pursuance of section 99 or 99A of the Assessment Act, is 0.833%.

(4) The amount of levy payable by a person in the capacity of a trustee of a trust estate upon the net income of the trust estate or a part of that net income, being income in respect of which the trustee is liable to be assessed and to pay tax in pursuance of section 99 or 99A of the Assessment Act, shall not exceed—

- (a) in the case of income in respect of which the trustee is liable to be assessed and to pay tax in pursuance of section 99 of the Assessment Act—
 - (i) 3.33% of the amount by which that net income or that part of that net income, as the case may be, exceeds \$416; or
 - (ii) \$100,
 whichever is the less; and
- (b) in the case of income in respect of which the trustee is liable to be assessed and to pay tax in pursuance of section 99A of the Assessment Act—\$100.

8. (1) The amount of levy payable in accordance with section 7 upon a taxable income by a person who was included in the same category during the whole of the year of income shall not exceed—

Maximum
levy where
person
included in
same
category
during whole
of year of
income

- (a) in the case of a person who was included in the first, fourth or fifth category—\$100; and
- (b) in the case of a person who was included in any other category—\$50.

(2) The amount of levy payable in accordance with section 7 upon a taxable income by a woman who was included during the whole of the year of income in the fourth category or was included during the whole of the year of income in the seventh category shall not exceed the amount remaining after deducting from \$100 the amount of levy that would be payable in accordance with section 7 and sub-section (1) of this section by a person included during the whole of the year of income in the first category upon a taxable income equal to the taxable income of the man of whom the woman was the dependent wife at the end of the year of income.

(3) The amount of levy payable in accordance with section 7 upon a taxable income by a woman who was included during the whole of the year of income in the fifth category or was included during the whole of the year of income in the eighth category shall not exceed the amount remaining after deducting from \$100 the amount of levy that would be payable in accordance with section 7 and sub-section (1) of this section by a person included during the whole of the year of income in the first category upon a taxable income equal to twice the taxable income of the man of whom the woman was the dependent wife at the end of the year of income.

(4) The amount of levy payable in accordance with section 7 upon a taxable income by a woman who was included during the whole of the year of income in the sixth category or was included during the whole of the year of income in the ninth category shall not exceed one-half of the amount remaining after deducting from \$100 the amount of levy that would be payable in accordance with section 7 and sub-section (1) of this section by a person included during the whole of the year of income in the first category upon a taxable income equal to the taxable income of the man of whom the woman was the dependent wife at the end of the year of income.

Maximum
levy where
person not
included in
same
category
during whole
of year of
income

9. (1) The amount of levy payable in accordance with section 7 upon a taxable income by a person who was not included in the same category during the whole of the year of income shall not exceed the relevant amount, or, if there is more than one relevant amount, the sum of the relevant amounts, applicable to the person under sub-section (2) of this section in respect of the year of income.

(2) For the purposes of sub-section (1)—

- (a) subject to sub-section 10 (2), a relevant amount is applicable to a person in respect of the year of income for each category in which the person was included during a part or parts of the year of income; and
- (b) the relevant amount applicable to a person in respect of the year of income for a particular category is so much of the amount of the levy that would be payable in accordance with sections 7 and 8 by the person upon the taxable income of the person if the part or parts of the year of income in which the person was included in that category constituted a year of income as bears to that amount the same proportion as the number of days in the part, or the sum of the numbers of days in the parts, of the year of income in which the person was included in that category bears to the number of days in the whole of the year of income.

10. (1) In the case of a person who was included in the same category during the whole of the year of income but was a prescribed person during a part or parts only of the year of income, the amount of the levy payable by the person in accordance with the preceding provisions of this Act upon the taxable income of the person shall be reduced by so much of that amount as bears to that amount the same proportion as the number of days in the part, or the sum of the numbers of days in the parts, of the year of income during which the person was a prescribed person bears to the number of days in the year of income.

Reduction of
levy—
person who
is prescribed
person for
part of year
of income

(2) Where, but for this sub-section, a relevant amount would, for the purposes of sub-section 9 (1), be applicable to a person in respect of the year of income for a category in which the person was included during a part or parts of the year of income but the person was a prescribed person during the whole of that part, or of those parts, of the year of income, then no relevant amount is, for the purposes of that sub-section, applicable to the person in respect of the year of income for that category.

(3) Where, for the purposes of sub-section 9 (1), a relevant amount is applicable to a person in respect of the year of income for a category in which the person was included during a part or parts of the year of income but the person was a prescribed person during portion only of that part, or of any of those parts, of the year of income, that relevant amount shall be reduced by so much of that amount as bears to that amount the same proportion as the number of days in the portion of that part, or the sum of the numbers of days in the portions of those parts, of the year of income during which the person was a prescribed person bears to the number of days in that part, or the sum of the numbers of days in those parts, of the year of income.

11. Where a person in the capacity of a trustee of a trust estate is liable to be assessed and to pay tax in pursuance of section 98 of the Assessment Act in respect of a share of the net income of the trust estate to which a beneficiary is presently entitled, the amount of levy payable by the trustee upon that share of that net income before the allowance of any rebate under section 251U of the Assessment Act or section 12 of this Act shall not exceed the amount of the levy that would be payable by the beneficiary before the allowance of any such rebate if the amount of that share were the taxable income of the beneficiary.

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

12. (1) Where the taxable income of a person (other than a person in the capacity of a trustee) is less than \$3,893, the person is entitled to a rebate of levy, in his assessment in respect of income of the year of income, of an amount equal to 33.5% of the amount by which \$3,893 exceeds the amount of that taxable income.

Small
incomes
rebate

(2) Where a trustee is liable to be assessed and to pay tax in pursuance of section 98 of the Assessment Act in respect of a share of the net income of a trust estate and the amount of that share is less than \$3,893, the trustee is entitled to a rebate of levy, in his assessment in respect of

that share of the net income, of an amount equal to 33.5% of the amount by which \$3,893 exceeds the amount of that share.

Rebates

13. In the application of section 251U of the Assessment Act to assessments in respect of income of the year of income that commenced on 1 July 1978, sub-section (1) of that section shall be read as if “or under section 6 of the *Income Tax (Individuals) Act 1978*” were inserted after “Part III”.

Financial
year for
which levy is
payable

14. The levy imposed by this Act is levied, and shall be paid, for the financial year that commenced on 1 July 1978.

NOTE

1. Act No. 127, 1978; assented to 13 October 1978.