



# **1998 Budget Measures Legislation Amendment (Social Security and Veterans' Entitlements) Act 1998**

**No. 116, 1998**



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**An Act to amend the *Social Security Act 1991* and  
the *Veterans' Entitlements Act 1986*, and for related  
purposes**

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**No. 116, 1998**

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**An Act to amend the *Social Security Act 1991* and  
the *Veterans' Entitlements Act 1986*, and for related  
purposes**

*[Assented to 11 December 1998]*

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *1998 Budget Measures Legislation  
Amendment (Social Security and Veterans' Entitlements) Act 1998*.

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## **2 Commencement**

- (1) Subject to subsections (2), (3) and (4), this Act commences on the day on which it receives the Royal Assent.
- (2) Schedules 1 and 2 commence, or are taken to have commenced, on 1 January 1999.
- (3) Part 1 of Schedule 3 commences on 1 September 1999.
- (4) Part 2 of Schedule 3 commences on 1 July 1999.

## **3 Schedule(s)**

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Amendments relating to seniors health card**

### **Part 1—Amendment of the Social Security Act 1991**

#### **1 Subsection 1061ZA(1)**

Omit “A person is qualified”, substitute “Subject to subsection (5), a person is qualified”.

#### **2 Paragraph 1061ZA(1)(ca)**

Repeal the paragraph.

#### **3 Paragraph 1061ZA(1)(d)**

Omit “ordinary”, substitute “taxable”.

#### **4 Paragraph 1061ZA(1)(f)**

Repeal the paragraph, substitute:

- (f) is not receiving a service pension;
- and, if the person was subject to a newly arrived resident’s waiting period, that period has ended (see subsections (2) to (4) and section 1061ZAA).

#### **5 Subsection 1061ZA(1) (note 2)**

Omit “ordinary”, substitute “taxable”.

#### **6 At the end of section 1061ZA**

Add:

- (5) A person is not qualified for a seniors health card at a particular test time if:
  - (a) the person has failed to comply with section 1061ZLA in respect of the reference tax year; or
  - (b) where the person has made an estimate of taxable income for the reference tax year and the estimate was accepted—the person did not give the Secretary a copy of a notice of

assessment of the person's taxable income for that tax year within 12 months after the end of that tax year.

(6) In subsection (5):

*test time* and *reference tax year* have the same meanings as in the Seniors Health Card Taxable Income Test Calculator.

## **7 At the end of Division 4 of Part 2A.1**

Add:

### **1061ZLA When copy of notice of assessment of taxable income to be given to Secretary**

If a person who is the holder of a seniors health card receives a notice of assessment or amended assessment of his or her taxable income for a particular tax year, the person must, if requested by the Secretary to do so, give a copy of the notice to the Secretary within 3 months after the day on which the notice was received.

## **8 Part 3.9**

Repeal the Part, substitute:

## **Part 3.9—Seniors Health Card Taxable Income Test Calculator**

### **1071 Seniors Health Card Taxable Income Test Calculator**

The Seniors Health Card Taxable Income Test Calculator at the end of this section is to be used in working out whether a person satisfies the seniors health card taxable income test for the purposes of this Act.



## Seniors Health Card Taxable Income Test Calculator

### *Satisfying the seniors health card taxable income test*

1071-1 This is how to work out whether a person satisfies the seniors health card taxable income test at a particular time (the *test time*).

#### *Method statement*

- Step 1.* Work out the amount of the person's adjusted taxable income for the reference tax year.
- Step 2.* Work out the person's seniors health card taxable income limit using point 1071-12.
- Step 3.* Work out whether the person's adjusted taxable income for the reference tax year exceeds the seniors health card taxable income limit.
- Step 4.* If the person's adjusted taxable income for the reference tax year is less than the person's seniors health card taxable income limit, the person satisfies the seniors health card taxable income test.
- Step 5.* If the person's adjusted taxable income for the reference tax year is equal to or exceeds the person's seniors health card taxable income limit, the person does not satisfy the seniors health card taxable income test.

#### *Reference tax year*

- 1071-2(1) In the ordinary case, a person's *reference tax year* is:
- (a) if the person has received a notice of assessment of his or her taxable income for the tax year immediately preceding the tax year in which the test time occurred—that immediately preceding tax year; or
  - (b) otherwise—the tax year immediately preceding the tax year applicable under paragraph (a).

- (2) However, if the person has informed the Secretary in writing that the person wishes to have his or her entitlement to a seniors health card determined by reference to his or her adjusted taxable income for the tax year in which the test time occurred (the **current tax year**), the person's **reference tax year** is the current tax year.

*Adjusted taxable income*

1071-3 For the purposes of this Part, a person's **adjusted taxable income** for a particular tax year is the sum of the following amounts (**income components**):

- (a) the person's taxable income for that year;
- (b) the person's fringe benefits value for that year;
- (c) the person's target foreign income for that year;
- (d) the person's net rental property loss for that year.

Note 1: For **taxable income** see subsection 23(1) and point 1071-4.

Note 2: For **fringe benefits value** see point 1071-6.

Note 3: For **target foreign income** see subsection 10A(2) and point 1071-7.

Note 4: For **net rental property loss** see subsection 10A(15) and point 1071-8.

*Taxable income*

1071-4 For the purposes of this Part, a person's **taxable income** for a particular tax year is:

- (a) the person's assessed taxable income for that year; or
- (b) if the person does not have an assessed taxable income for that year—the person's accepted estimate of taxable income for that year.

*Assessed taxable income*

1071-5 For the purposes of this Part, a person's **assessed taxable income** for a particular tax year at a particular time is the most recent of:

- (a) if, at that time, the Commissioner of Taxation has made an assessment or an amended assessment of that taxable income—that taxable income according to the assessment or amended assessment; or

- (b) if, at that time, a tribunal has amended an assessment or an amended assessment made by the Commissioner—that taxable income according to the amendment made by the tribunal; or
- (c) if, at that time, a court has amended an assessment or an amended assessment made by the Commissioner or an amended assessment made by a tribunal—that taxable income according to the amendment made by the court.

*Fringe benefits value*

- 1071-6 For the purposes of this Part, a person's **fringe benefits value** for a particular tax year is the person's accepted estimate of the amount by which the total of the assessable fringe benefits received or to be received by the person in the tax year exceeds \$1,000.

Note: For **assessable fringe benefit** see subsection 10A(2) and Part 3.12A.

*Target foreign income*

- 1071-7 For the purposes of this Part, a person's **target foreign income** for a particular tax year is the person's accepted estimate of the amount of that income for that year.

*Net rental property loss*

- 1071-8 For the purposes of this Part, a person's **net rental property loss** for a particular tax year is the person's accepted estimate of the amount of that loss for that year.

*Accepted estimate*

- 1071-9 For the purposes of this Part, a person's **accepted estimate** of an income component for a particular tax year is that income component according to the most recent notice given by the person to the Secretary under point 1071-10 and accepted by the Secretary for the purposes of this Part.

**Schedule 1** Amendments relating to seniors health card  
**Part 1** Amendment of the Social Security Act 1991

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*Notice estimating income component*

- 1071-10(1) A person may give the Secretary a notice, in a form approved by the Secretary, setting out the person's estimate of an income component of the person for a tax year.
- (2) The notice is to contain, or be accompanied by, such information as is required by the form to be contained in it or to accompany it, as the case may be.
- (3) The Secretary is to accept a notice only if the Secretary is satisfied that the estimate is reasonable.

*Adjusted taxable income of members of couples*

- 1071-11 If a person is a member of a couple, add the couple's adjusted taxable incomes for the reference tax year and divide by 2 to work out the amount of the person's adjusted taxable income for the reference tax year.

*Seniors health card taxable income limit*

- 1071-12 A person's seniors health card taxable income limit is worked out using the Seniors Health Card Taxable Income Limit Table. Work out which family situation in the table applies to the person. The person's seniors health card taxable income limit is the corresponding amount in column 3 plus an additional corresponding amount in column 4 for each dependent child of the person.

<b>Seniors Health Card Taxable Income Limit Table</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Item</b>	<b>Person's family situation</b>	<b>Amount per year</b>	<b>Additional dependent child Amount per year</b>
1	Not member of couple	\$40,000	\$624

<b>Seniors Health Card Taxable Income Limit Table</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Item</b>	<b>Person's family situation</b>	<b>Amount per year</b>	<b>Additional dependent child Amount per year</b>
2	Partnered	\$33,500	\$624
3	Member of illness separated couple	\$36,698	\$624
4	Member of respite care couple	\$40,000	\$624
5	Partnered (partner in gaol)	\$40,000	\$624

Note 1: For *member of couple, partnered, illness separated couple, respite care couple* and *partnered (partner in gaol)* see section 4.

Note 2: For *dependent child* see section 5.

**9 At the end of subsection 1157A(1)**

Add:

These provisions are also necessary for the purposes of the Seniors Health Card Taxable Income Test Calculator.

**10 Section 1190 (Indexed and Adjusted Amounts Table, items 58 to 62)**

Repeal the items.

**11 Section 1206C**

Repeal the section.

## **Part 2—Amendment of the Veterans' Entitlements Act 1986**

### **12 Paragraph 118V(1)(h)**

Omit "ordinary".

### **13 Subsection 118V(1) (note 3)**

Omit "ordinary".

### **14 Paragraph 118V(2)(h)**

Omit "ordinary".

### **15 Subsection 118V(2) (note 4)**

Omit "ordinary".

### **16 Paragraph 118V(3)(h)**

Omit "ordinary".

### **17 Subsection 118V(3) (note 5)**

Omit "ordinary".

### **18 At the end of section 118V**

Add:

- (4) A person is not eligible for a seniors health card at a particular test time if:
  - (a) the person has failed to comply with section 118ZJA in respect of the reference tax year; or
  - (b) where the person has made an estimate of taxable income for the reference tax year and the estimate was accepted—the person did not give the Commission a copy of a notice of assessment of the person's taxable income for that tax year within 12 months after the end of that tax year.

- (5) In subsection (4):
-

*taxable income, test time* and *reference tax year* have the same meanings as in the Seniors Health Card Income Test Calculator.

## **19 At the end of Division 5 of Part VIIC**

Add:

### **118ZJA When copy of notice of assessment of taxable income to be given to Department**

- (1) If a person who is the holder of a seniors health card receives a notice of assessment or amended assessment of his or her taxable income for a particular tax year, the person must, if requested by the Secretary to do so, give a copy of the notice to the Department within 3 months after the day on which the notice was received.
- (2) In this section:

*taxable income* has the same meaning as in the Seniors Health Card Income Test Calculator.

## **20 Divisions 8 and 9 of Part VIIC**

Repeal the Divisions, substitute:

### **Division 8—Seniors Health Card Income Test Calculator**

#### **118ZAA Seniors Health Card Income Test Calculator**

The Seniors Health Card Income Test Calculator at the end of this section is to be used in working out whether a person satisfies the seniors health card income test for the purposes of this Act.

#### **Seniors Health Card Income Test Calculator**

*Satisfying the seniors health card income test*

- 118ZAA-1 This is how to work out whether a person satisfies the seniors health card income test at a particular time (the *test time*).

<i>Method statement</i>
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**Schedule 1** Amendments relating to seniors health card  
**Part 2** Amendment of the Veterans' Entitlements Act 1986

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- Step 1.* Work out the amount of the person's adjusted taxable income for the reference tax year.
- Step 2.* Work out the person's seniors health card income limit using point 118ZAA-11.
- Step 3.* Work out whether the person's adjusted taxable income for the reference tax year exceeds the seniors health card income limit.
- Step 4.* If the person's adjusted taxable income for the reference tax year is less than the person's seniors health card income limit, the person satisfies the seniors health card income test.
- Step 5.* If the person's adjusted taxable income for the reference tax year is equal to or exceeds the person's seniors health card income limit, the person does not satisfy the seniors health card income test.

*Reference tax year*

- 118ZAA-2(1) In the ordinary case, a person's *reference tax year* is:
- (a) if the person has received a notice of assessment of his or her taxable income for the tax year immediately preceding the tax year in which the test time occurred—that immediately preceding tax year; or
  - (b) otherwise—the tax year immediately preceding the tax year applicable under paragraph (a).
- (2) However, if the person has informed the Secretary in writing that the person wishes to have his or her entitlement to a seniors health card determined by reference to his or her adjusted taxable income for the tax year in which the test time occurred (the *current tax year*), the person's *reference tax year* is the current tax year.



*Adjusted taxable income*

118ZAA-3 For the purposes of this Division, a person's **adjusted taxable income** for a particular tax year is the sum of the following amounts (**income components**):

- (a) the person's taxable income for that year;
- (b) the person's fringe benefits value for that year;
- (c) the person's target foreign income for that year;
- (d) the person's net rental property loss for that year.

Note 1: For **taxable income** see point 118ZAA-4.

Note 2: For **fringe benefits value** see point 118ZAA-5.

Note 3: For **target foreign income** see point 118ZAA-6.

Note 4: For **net rental property loss** see point 118ZAA-7.

*Taxable income*

118ZAA-4(1) In this Division:

**taxable income** has the same meaning as in the *Income Tax Assessment Act 1997*.

- (2) For the purposes of this Division, a person's **taxable income** for a particular tax year is:
  - (a) the person's assessed taxable income for that year; or
  - (b) if the person does not have an assessed taxable income for that year—the person's accepted estimate of taxable income for that year.
- (3) For the purposes of this Division, a person's **assessed taxable income** for a particular tax year at a particular time is the most recent of:
  - (a) if, at that time, the Commissioner of Taxation has made an assessment or an amended assessment of that taxable income—that taxable income according to the assessment or amended assessment; or
  - (b) if, at that time, a tribunal has amended an assessment or an amended assessment made by the Commissioner—that

taxable income according to the amendment made by the tribunal; or

- (c) if, at that time, a court has amended an assessment or an amended assessment made by the Commissioner or an amended assessment made by a tribunal—that taxable income according to the amendment made by the court.

*Fringe benefits value*

118ZAA-5(1) For the purposes of this Division, a person's **fringe benefits value** for a particular tax year is the person's accepted estimate of the amount by which the total of the assessable fringe benefits received or to be received by the person in the tax year exceeds \$1,000.

Note: The amount of \$1,000 corresponds to the fringe benefits value free area in point 1069-H24 in the Family Allowance Rate Calculator in Part 3.7 of the *Social Security Act 1991*.

- (2) In this point:

**assessable fringe benefit** has the meaning given by subsection 10A(2) of the *Social Security Act 1991*.

- (3) The value of an assessable fringe benefit is to be worked out in accordance with Part 3.12A of the *Social Security Act 1991* except that references in that Part to the Minister and to the Secretary are to be taken to be references to the Minister for Veterans' Affairs and to the Secretary to the Department of Veterans' Affairs, respectively.

*Target foreign income*

118ZAA-6(1) In this Division:

**foreign income**, in relation to a person, means:

- (a) an income amount earned, derived or received by the person from a source outside Australia for the person's own use or benefit; or
- (b) a periodical payment by way of gift or allowance from a source outside Australia; or

(c) a periodical benefit by way of gift or allowance from a source outside Australia.

**target foreign income** means foreign income that is not:

- (a) taxable income; or
  - (b) received in the form of a fringe benefit.
- (2) For the purposes of this Division, a person's **target foreign income** for a particular tax year is the person's accepted estimate of the amount of that income for that year.

*Net rental property loss*

118ZAA-7(1) In this Division:

**net rental property loss**, in relation to a person for a tax year, means:

- (a) if the expenses incurred by the person on rental property during that year exceed the person's gross rental property income for that year—the amount by which those expenses exceed that gross rental property income; or
  - (b) otherwise—nil.
- (2) For the purposes of this Division, a person's **net rental property loss** for a particular tax year is the person's accepted estimate of the amount of that loss for that year.

*Accepted estimate*

118ZAA-8 For the purposes of this Division, a person's **accepted estimate** of an income component for a particular tax year is that income component according to the most recent notice given by the person to the Secretary under point 118ZAA-9 and accepted by the Commission for the purposes of this Part.

*Notice estimating income component*

- 118ZAA-9(1) A person may give the Secretary a notice, in a form approved by the Commission, setting out the person's estimate of an income component of the person for a tax year.
- (2) The notice is to contain, or be accompanied by, such information as is required by the form to be contained in it or to accompany it, as the case may be.
  - (3) The Commission is to accept a notice only if the Commission is satisfied that the estimate is reasonable.

*Adjusted taxable income of members of couples*

118ZAA-10 If a person is a member of a couple, add the couple's adjusted taxable incomes for the reference tax year and divide by 2 to work out the amount of the person's adjusted taxable income for the reference tax year.

*Seniors health card income limit*

118ZAA-11 A person's seniors health card income limit is worked out using the Seniors Health Card Income Limit Table. Work out which family situation in the table applies to the person. The person's seniors health card income limit is the corresponding amount in column 3 plus an additional corresponding amount in column 4 for each dependent child of the person.

<b>Seniors Health Card Income Limit Table</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Item</b>	<b>Person's family situation</b>	<b>Amount per year</b>	<b>Additional dependent child Amount per year</b>
1	Not member of couple	\$40,000	\$624

Amendments relating to seniors health card **Schedule 1**  
 Amendment of the Veterans' Entitlements Act 1986 **Part 2**

<b>Seniors Health Card Income Limit Table</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Item</b>	<b>Person's family situation</b>	<b>Amount per year</b>	<b>Additional dependent child Amount per year</b>
2	Partnered	\$33,500	\$624
3	Member of illness separated couple	\$36,698	\$624
4	Member of respite care couple	\$40,000	\$624

Note 1: For *member of couple* and *partnered*, see section 5E.

Note 2: For *illness separated couple* and *respite care couple*, see section 5R.

Note 3: For *dependent child*, see section 5F.

## Schedule 2—Amendments relating to single people sharing accommodation

### *Social Security Act 1991*

#### **1 After paragraph 5A(2)(a)**

Insert:

- (ab) is residing in exempt accommodation (see subsections (5A), (5B) and (5C)); or

#### **2 After subsection 5A(5)**

Insert:

- (5A) A person's accommodation is *exempt accommodation* if it is in premises that are, in the Secretary's opinion, a boarding house, guest house, hostel, hotel, private hotel, rooming house, lodging house or similar premises.
- (5B) In forming an opinion about a person's accommodation for the purposes of subsection (5A), the Secretary is to have regard to the characteristics of the accommodation including, in particular, whether or not the following are characteristics of the accommodation:
  - (a) the premises are known as a boarding house, guest house, hostel, hotel, private hotel, rooming house, lodging house or similar premises;
  - (b) a manager or administrator (other than a real estate agent) is retained to manage the premises or administer the accommodation on a daily or other frequent regular basis;
  - (c) staff are retained by the proprietor or manager of the premises to work in the premises on a daily or other frequent regular basis;
  - (d) the residents lack control over the day-to-day management of the premises;
  - (e) there are house rules, imposed by the proprietor or manager, that result in residents having rights that are more limited

than those normally enjoyed by a lessee of private residential accommodation (for example, rules limiting the hours of residents' access to their accommodation or limiting residents' access to cooking facilities in the premises);

- (f) the person does not have obligations to pay for his or her costs of gas, water or electricity separately from the cost of the accommodation;
- (g) the accommodation is not private residential accommodation, having regard to:
  - (i) the number and nature of bedrooms in the premises; or
  - (ii) the number of people who are not related to one another living at the premises; or
  - (iii) the number and nature of bathrooms in the premises;
- (h) the person's accommodation has not been offered to the person on a leasehold basis;
- (j) there is no requirement that the person pay a bond as security for either the payment of rent or the cost of any damage caused by the person, or for both;
- (k) the person's accommodation is available on a daily or other short-term basis.

(5C) Each of the characteristics set out in subsection (5B) points towards the accommodation in question being exempt accommodation.

### **3 Application**

The amendments made by this Schedule apply to instalments of social security payments that fall due on or after the first payday after 31 December 1998.

## **Schedule 3—Amendments relating to foster carers**

### **Part 1—Amendments relating to parenting payment to single people**

#### *Social Security Act 1991*

**1 Subparagraph 500D(2)(b)(ii)**

Omit “allowance; and”, substitute “allowance.”

**2 Paragraph 500D(2)(c)**

Repeal the paragraph.

**3 Section 500D (note 2)**

Repeal the note.



## **Part 2—Amendments relating to health care cards for fostered children**

### *National Health Act 1953*

#### **4 Subsection 84(1) (after paragraph (b) of the definition of *concessional beneficiary*)**

Insert:

(ba) a person:

- (i) who is in foster care; and
- (ii) in respect of whom family allowance is being paid; and
- (iii) who is the holder of a health care card; or

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*[Minister's second reading speech made in—  
House of Representatives on 12 November 1998  
Senate on 26 November 1998]*

(160/98)

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