

EXPLANATORY STATEMENT
STATUTORY RULES 1984 NO. 286
ISSUED BY THE AUTHORITY OF THE TREASURER

The principal purpose of these regulations is to provide for new tax instalment deductions from salary or wages received on or after 1 November 1984, to reflect the decisions announced in the 1984-85 Budget to alter the personal income tax rate scale and increase the basic zone rebates, Medicare levy thresholds and Medicare levy ceiling.

The changes to the rate scale for residents to apply from 1 November 1984 comprise a reduction in the tax rate from 30 cents to 25 cents in the dollar on that part of taxable income between \$4,596 and \$12,500, the introduction of a rate of 48 cents in the dollar on that part of taxable income in the range \$28,001 to \$35,000, and the commencement of the maximum marginal rate of 60 cents in the dollar from \$35,001 rather than \$35,789. The reduced 25 per cent rate has not been extended to non-residents generally, who will continue to be taxed at the 30 per cent standard rate on taxable incomes up to \$19,500, and in accordance with the new rate scale for residents on incomes above that level.

The basic zone rebates are to be increased to \$270 for Zone A, \$45 for Zone B, and \$938 for the special zone areas. The low income threshold for payment of the Medicare levy is to be increased to \$7,110 for individuals and to \$11,803 for married couples and sole parents, with the latter threshold being further increased by \$1,330 for each dependent child or student. The maximum amount of levy payable by an individual or married couple is to be increased to \$750.

The regulations also provide for an increase from \$20 to \$40 in the amount which a person may derive in respect of a week or part of a week from certain part time domestic

employment without becoming subject to the tax instalment deduction provisions governing second jobs.

Another purpose of the regulations is to increase, for the 1984-85 and subsequent income years, the prescribed minimum values for natural increases in live stock.

In addition, these regulations remedy two technical deficiencies in the regulations governing the deduction of PAYE tax instalments from lump sum superannuation and other eligible termination payments.

Notes on each of the amending regulations are set out below:

Tax instalment deductions from salary or wages
(Regulations 1,3,4,5,8 and 9)

Regulation 1 provides for the amending regulations governing the tax instalments to be deducted from salary or wages to come into operation on 1 November 1984.

Regulation 3 inserts new regulation 54CB which is necessary as a result of the decision to extend entitlement to the income tax rebate for a dependent spouse to taxpayers living in a de facto relationship. As part of that decision, a taxpayer who contributes to the maintenance of both a married spouse and one or more de facto spouses, of more than one de facto spouse, or of more than one married spouse in cases where foreign marriage laws permit polygamous marriages that are recognised under Australian law, is not to be entitled to more than one dependent spouse rebate in his or her income tax assessment for the relevant year of income.

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New regulation 54CB operates to ensure that, in situations of the above kind, the taxpayer is also entitled to have only one dependent spouse rebate taken into account in determining the PAYE instalments deducted from his or her salary or wages.

Regulation 4 amends regulation 54DA which specifies the rates at which tax instalments are to be deducted by an employer from the salary or wages (other than lump sum retirement amounts to which regulation 54DAAA applies and eligible termination payments) of an employee who has furnished to his employer a declaration to the effect that he is a prescribed non-resident.

New paragraph (b) of regulation 54DA provides that the deduction to be made from salary or wages of \$375 or more but less than \$538 per week (the weekly equivalent of the top of the 46 per cent rate step in the rates scale) is to be \$112.20 (the instalment deduction applicable to salary or wages of \$374) plus 46 per cent of the excess over \$374, the resultant amount being rounded to the nearest 5 cents.

Paragraph (c) specifies the rate of deductions to be made from weekly salary or wages of \$538 or more but less than \$673 (the weekly equivalent of the top of the 48 per cent step in the rates scale) to be \$187.17 (the instalment deduction applicable to salary or wages of \$537) plus 48 per cent of the excess over \$537, again rounded to the nearest 5 cents.

In terms of paragraph (d), the rate of deductions to be made from weekly salary or wages of \$673 or more is \$251.95 (the amount applicable to \$672 under paragraph (c)) plus 60 per cent of the excess over \$672.

Regulation 5 amends regulation 54DAM which applies where an employee, because of changed circumstances, is no longer entitled to some or all of the rebates claimed in an

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income tax instalment declaration previously furnished. In such a case, an employee is effectively required to withdraw that declaration.

One consequence of the decision to extend entitlement to the income tax rebate for a dependent spouse to taxpayers living in a de facto relationship, is that a taxpayer who would otherwise have been eligible to claim a housekeeper rebate in respect of a de facto spouse will be entitled to claim only the spouse rebate. If the taxpayer is ineligible for the spouse rebate because of the separate net income of his or her de facto spouse, the taxpayer will be ineligible to claim either rebate.

New sub-regulation 54DAM(1) operates to require that employees furnish new income tax instalment declarations in all cases where there is a change in the circumstances affecting the entitlement of a person to a rebate being claimed in a current declaration. This includes situations where an employee is entitled to the same amount of rebate in respect of a person but as a different category of dependant; for example as a de facto spouse in respect of whom an employee becomes entitled to a full spouse rebate of \$1,030 in lieu of a housekeeper rebate of the same value.

Regulation 8 repeals the Third Schedule to the Income Tax Regulations - the schedule that specifies the rates of deductions to be made from salary or wages less than \$751 per week - and inserts a new Third Schedule to apply on and from 1 November 1984.

Table A of the new Schedule prescribes the weekly rates of tax instalment deductions to be made from the salary or wages of an employee -

- (a) who receives salary or wages in respect of a week or part of a week of less than \$73; and

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- (b) who has furnished neither an income tax instalment declaration nor a Medicare levy variation declaration.

Table B prescribes the weekly rates of tax instalment deductions to be made from the salary or wages of an employee -

- (a) who receives salary or wages in respect of a week or part of a week of not less than \$73 but less than \$751; and
- (b) who has furnished neither an income tax instalment declaration nor a Medicare levy variation declaration; or
- (c) who has furnished an income tax instalment declaration claiming only the general exemption or claiming a rebate for dependants or as a sole parent, but has not furnished a Medicare levy variation declaration.

Column 2 of Table B applies where the employee has not furnished a declaration claiming the general exemption.

Sub-column (i) of Column 3 of the Table applies where the employee has claimed only the general exemption. In such a case, no tax instalment deductions are required to be made where the salary or wages in respect of a week or part of a week are less than \$86.

Sub-columns (ii), (iii) and (iv) of Column 3 of Table B prescribe the rates of instalment deductions to be made where an employee has claimed a rebate value of \$780 (the maximum rebate allowable to a sole parent), \$830 (the maximum rebate allowable in respect of a spouse, daughter-housekeeper or housekeeper where there are no dependent children) or \$1,030 (the maximum

rebate allowable in respect of a spouse, daughter-housekeeper or housekeeper where there is a dependent child or student).

Where the total value of the rebates claimed in the declaration furnished by the employee is not an amount within sub-columns (ii), (iii) or (iv) of Column 3, the instalments to be deducted are to be ascertained under the formula laid down in sub-paragraph (c)(ii) of regulation 54C. In broad terms, this requires the instalment deduction shown in sub-column (i) of Column 3 to be reduced by an amount ascertained by multiplying 1.9 cents by the rebate value claimed in the employee's declaration.

Table C specifies the reduction to be made from the weekly rates of tax instalment deductions prescribed in Table B. It will apply where an employee who receives salary or wages in respect of a week or part of a week of not less than \$134 but less than \$367 has furnished both -

- (a) an income tax instalment declaration; and
- (b) a Medicare levy variation declaration taking account of up to 5 dependent children or student children and that the employee is entitled to the benefit of the family income threshold.

Table CA caters for cases where Table C would otherwise apply, but the Medicare levy variation declaration is for 6 or more dependent children (or dependent student children).

Table D prescribes the weekly rates of tax instalment deductions to be made from the salary or wages of an employee who receives salary or wages in respect of a week or part of a week of not less than \$86 but less than \$751 and who has furnished -

- (a) an income tax instalment declaration; and
- (b) a Medicare levy variation declaration as -
 - . a prescribed person (and thus a "no-levy" case); or
 - . a prescribed person having at least one dependant who is not a prescribed person (and who is thus a "half-levy" case).

Table E is the half-levy reduction equivalent to Table C. It will be used where an employee to whom Table D would otherwise apply receives salary or wages in respect of a week or part of a week of not less than \$223 but less than \$367 and has furnished a Medicare levy variation declaration for up to 5 dependent children or student children and claiming the benefit of the family income threshold.

Table EA caters for cases where Table E would otherwise apply, but the Medicare levy variation declaration is for 6 or more dependent children (or dependent student children).

Regulation 9 and the Schedule to which it relates make a number of further amendments to amounts specified in the regulations to reflect changes in the personal income tax rate scale, the zone rebates and in the Medicare levy provisions.

The regulation increases to \$85.99 the level of weekly earnings up to which tax instalment deductions are not required to be made in respect of an employee who furnishes a declaration claiming the general exemption. It also makes amendments to those regulations that specify the amount of tax instalments to be deducted where the amount is not ascertained from one of the tables in the Third Schedule, for example, where salary or wages exceeds the maximum level of earnings covered by Table B of the Third Schedule.

In addition, the regulation amends regulation 54DAB - under which no tax instalments are required to be deducted from salary or wages paid by an employer (otherwise than in connection with a trade, business, profession or undertaking carried on by the employer) in respect of a week or part of a week which do not exceed \$20 - by increasing the \$20 amount to \$40. Regulation 54DAB was inserted in 1975 to free from the scope of the PAYE requirements for second jobs small amounts of salary or wages for certain part-time domestic services, such as babysitting and gardening. The \$20 maximum was introduced at that time and has not until now been increased.

Valuation of live stock

(Regulations 2 and 7)

Paragraph (a) of regulation-2 is a drafting measure which will omit the reference to Forms 3 and 4 from sub-regulation 5(1). Forms 3 and 4 contain a prescription of suggested forms of advice to the Commissioner concerning live stock valuations. Since the prescription by regulation of the form of such advices is an outmoded practice, the reference to these forms is to be omitted.

Paragraph (b) of regulation 2 omits sub-regulation 5(3) and inserts a new-sub-regulation-5(3) to increase, in respect of 1984-85 and subsequent income years, the minimum cost price of each of the classes of live stock specified in the sub-regulation. Both the new minimum values in respect of natural increase produced during the 1984-85 income year and subsequent years, and the minimum values applicable in respect of natural increase produced during earlier income years, are set out in the table contained in the sub-regulation.

Regulation-7 omits Forms 3 and 4 from the First Schedule to the Income Tax Regulations consequential upon the amendment of sub-regulation 5(1) discussed above.

Eligible-Termination-Payments

(Regulation 6)

Regulation 6 makes two technical amendments to regulation 54DAQ which requires an employer (being the payer of a lump sum superannuation or other eligible termination payment) and an employee (being the payee of such a payment) to complete together a form called a Statement of Termination Payment. The completed form contains information necessary for calculating the appropriate PAYE tax instalment deduction to be made from the payment in accordance with regulation 54DAP.

Sub-regulation 54DAQ(2) allows an employee, on the "Roll-Over Nomination" part of the Statement of Termination Payment, to authorise the employer to "roll-over" within 90 days such components of the eligible termination payment as are nominated by the employee and so defer any tax liability on the amount rolled over. The amendment made by paragraph (a) of regulation 6 makes it clear that the employee may elect to roll-over a payment in any one or more of the ways specified in sub-section 27A(12) of the Act - that is, by depositing it in a superannuation fund or approved deposit fund or by buying certain types of annuity. The existing paragraph 54DAQ(2)(a) is worded in such a way as to admit the unintended interpretation that it authorises roll-over payments only where the eligible termination payment is rolled-over in all of the ways set down in sub-section 27A(12).

Paragraph (b) of regulation 6 amends sub-regulation 54DAQ(5). This sub-regulation provides a special method of calculating the eligible service period attaching to an eligible termination payment where the payment is attributable, by roll-over, to an earlier eligible termination payment. It was the intention of sub-regulation 54DAQ(5) that, in such a case, the eligible service period in respect of the earlier payment (in these notes called the "original eligible service period") be taken into account for the purposes of the later payment only to the extent that the "pre 1 July 1983 component" (as defined in regulation 54DAO) of the earlier payment is rolled-over.

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The formula in paragraph 54DAQ(5)(a), by incorrectly adopting a component in a formula in the Act, does not properly give effect to that intention. The formula would give an unintended advantage to affected taxpayers by either not truncating the original eligible service period at all or by truncating it by too little. The amended formula contained in the new paragraph 54DAQ(5)(a) substituted by these regulations will give effect to the original intention of sub-regulation 54DAQ(5).