client alert | explanatory memorandum

July 2015

CURRENCY:

This issue of **Client Alert** takes into account all developments up to and including 15 June 2015.

Small business company tax rate cut

The *Tax Laws Amendment (Small Business Measures No 1) Bill 2015* has been introduced. It proposes to implement a 2015–2016 Budget measures by amending the *Income Tax Rates Act 1986* to reduce the company tax rate from 30% to 28.5% for companies that are small business entities with an aggregated turnover of less than $2 million. The company tax rate for corporate unit trusts and public trading trusts that are small business entities will also be reduced to 28.5%. For all other companies that are not small business entities, the corporate tax rate will remain at 30%. Importantly, and as also announced in the Budget, the maximum franking credit that can be allocated to a frankable distribution will be unchanged, so the same rate of 30% will continue to apply to all companies.

The term "small business entity" takes its meaning from s 328-110 of ITAA 1997 and includes the requirement that an entity must have an aggregate turnover of less than $2 million in the previous year and be likely to come under the turnover threshold of $2 million for the current year.

Consequential amendments

Some consequential amendments flow from the rate reduction to 28.5%:

- **Non-profit companies** pay no tax on the first $416 of their taxable income. Tax is then shaded in at a rate of 55% of the excess over $416 until the tax on taxable income equals the corporate tax rate. Where the taxable income exceeds the shade-in limit, the full taxable income is effectively taxed at the corporate tax rate. The shade-in limit is currently $915 (reflecting the current 30% corporate tax rate). With the reduction in corporate tax rate to 28.5% for small business companies, it is proposed to reduce the shade-in limit to $863 for non-profit companies that are small business companies. As a result, the rates of tax payable by a non-profit company that is a small business company would be:
  - nil on the first $416 of taxable income;
  - 55% on taxable income between $416 and $863; and
  - 28.5% on taxable income above $863.
- Currently, the tax payable by a **recognised medium credit union** (ie a credit union with notional taxable income between $50,000 and $150,000) before any offsets or credits is limited to 45% of the amount by which the credit union's taxable income exceeds $49,999. The 45% rate that applies to the taxable income of recognised medium credit unions reflects the current 30% corporate tax rate. As the corporate tax rate is being reduced to 28.5% for small business companies, this credit union rate would be reduced to 42.75% for medium credit unions that are small business companies.
- A number of consequential amendments will be made to various provisions in ITAA 1936 and ITAA 1997 that refer to a 30% rate, to ensure that the appropriate rate is applied for **small business companies**.
- Other consequential amendments would be made that:
  - ensure that the amount of the rebate allowed under the tax exempt infrastructure borrowing concessions in certain circumstances is calculated based on the corporate tax rate that applies to the entity;
  - ensure that when reducing a carried forward tax offset by any unused or net exempt income, the reduction is calculated based on the corporate tax rate that applies to the entity;

- update examples which illustrate the operation of the company tax loss rules in certain circumstances to clarify that the company in the examples is not a small business entity;
- update an example which illustrates the operation of capital gains tax discount rules for shareholders in listed investment companies to clarify that the company in the example is not a small business entity.

Date of effect

The amendments would apply for the first income year beginning on or after 1 July 2015 and for subsequent income years.

Previous announcement

The change was announced in the 2015–2016 Federal Budget.

Source: Tax Laws Amendment (Small Business Measures No 1) Bill 2015, http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;page=0;query=BillId%3Ar5465%20Recstruct%3Abillhome .

[**Postscript**: At the time of publication, the Bill had passed all stages of Parliament without amendment and was effectively awaiting Royal Assent.]

Accelerated depreciation write-off for SMEs

The *Tax Laws Amendment (Small Business Measures No 2) Bill 2015* has been introduced. It proposes to allow a short-term accelerated depreciation write-off up to $20,000 (up from the current $1,000 threshold) for assets acquired by small businesses, and to allow primary producers to claim an immediate deduction for capital expenditure on water facilities and fencing assets and deduct capital expenditure on fodder storage assets over three years.

$20,000 write-off

The Bill would amend the accelerated depreciation rules for small businesses (businesses with an aggregate annual turnover of less than $2 million) by temporarily increasing the threshold under which certain depreciating assets, costs incurred in relation to depreciating assets and general small business pools can be written off. The increased threshold of $20,000 would apply only to assets that were first acquired at or after 7:30 pm legal time in the ACT on 12 May 2015, and first used or installed ready for use on or before 30 June 2017. From 1 July 2017, the threshold would revert to the existing $1,000. The increased threshold would be available to all small businesses (including those who previously opted out of the simplified depreciation rules).

Key features

- Small business entities can claim an immediate deduction (ie in their next tax return) for depreciating assets that cost less than $20,000, provided the asset is first acquired at or after 7.30 pm, by legal time in the ACT, on 12 May 2015, and first used or installed ready for use on or before 30 June 2017. Depreciating assets that do not meet these timing requirements would continue to be subject to the $1,000 threshold. The asset can be new or second-hand.
  - The write-off is for the taxable purpose proportion of the cost of an asset acquired for less than $20,000. The "taxable purpose proportion" of a depreciating asset is defined in s 328-205(3) and in general terms represents the proportion of an asset's use in an income year that is for the purposes of producing assessable income. The deduction for assets that cost less than $20,000 is claimed in the income year in which the asset was first used or installed ready for use.
- The requirement that an asset be "first acquired" at a particular time is not a feature of current Subdiv 328-D and is an additional requirement for the increased threshold to apply. This additional requirement limits access to the increased threshold to a small business entity's "new" assets. Requiring a depreciating asset to have been "first" acquired by the small business entity is designed to ensure that assets cannot satisfy the acquisition requirement if they were previously acquired at an earlier time, temporarily disposed of, and then reacquired at or after the 7.30 pm start time.
  - Depreciating assets that are first acquired prior to the 7.30 pm start time would continue to be subject to the existing threshold, irrespective of when they are first used or installed ready for use. The existing $1,000 threshold would also apply to depreciating assets that are first acquired from the 7.30 pm start time but were not first used or installed ready for use on or before 30 June 2017.
- Small business entities can claim an immediate deduction for depreciating assets that cost less than $1,000 if the asset is first used or installed ready for use on or after 1 July 2017.

- Small business entities can claim a deduction for an amount included in the second element of the cost of depreciating assets (eg an amount spent on improving or transporting a depreciating asset) that are first used or installed ready for use in a previous income year. The total amount of the cost must be less than $20,000 and the cost must be incurred at or after 7.30 pm, by legal time in the ACT, on 12 May 2015, and on or before 30 June 2017. Costs that are incurred outside of these times would continue to be subject to the $1,000 threshold.
  - As a result of the proposed amendments, if a small business entity incurs a cost of $20,000 or more that is included in the second element of a depreciating asset's cost, and the depreciating asset has been written off in a previous income year, the asset in relation to which the cost was incurred will be treated as having a value equal to the amount that is included in the second element of its cost. The asset would then be allocated to the small business entity's general small business pool, deducted at a rate of 15% in the income year in which the amount was incurred, and then deducted at a rate of 30% in subsequent income years as part of the general small business pool.
- Small business entities can claim a deduction for an amount included in the second element of the cost of depreciating assets that are first used or installed ready for use in a previous income year, where the amount is less than $1,000, and the cost is incurred on or after 1 July 2017.
- From 7.30 pm, by legal time in the ACT, on 12 May 2015, assets that cost $20,000 or more, and costs of $20,000 or more relating to depreciating assets, can be allocated to a small business entity's general small business pool and deducted at a specified rate for the depletion of the pool.
- Assets and costs allocated to a general small business pool are deducted at a rate of 15% in the year they are allocated, and a rate of 30% in subsequent income years.
- If the balance of a small business entity's general small business pool is less than $20,000 at the end of an income year, the small business entity can claim a deduction for the entire balance of the pool. The income year must end on or after 12 May 2015, and on or before 30 June 2017.
- If the balance of a small business entity's general small business pool is less than $1,000 at the end of an income year that ends after 30 June 2017, the small business entity can claim a deduction for the entire balance of the pool.

Five-year “lock out” rule

Under existing arrangements, a small business entity that elects to apply the small business capital allowance provisions in an income year, and then does not choose to apply the provisions for a later income year in which it satisfies the conditions to make this choice (that is, the entity “opted out”), is not able to apply the small business capital allowance provisions for a period of five income years, commencing from the first later year for which the entity could have made the choice to apply the provisions. This rule is contained in s 328-175(10), and is commonly referred to as the “lock out” rule.

Amendments in the Bill propose to alter the way the lock out rule applies in particular income years. Small business entities would not be required to apply the lock out rule to income years that end on or after 12 May 2015 but on or before 30 June 2017.

In other words, the increased threshold that applies between 12 May 2015 and 30 June 2017 applies to all small business entities, including those subject to the five-year lock out rule in that period because they previously opted out of the small business entity capital allowance provisions. For the purposes of applying the lock out rule to an income year after 30 June 2017, only the choice made in the in the last income year ending on or before 30 June 2017 is relevant.

Artificial or contrived arrangements to claim deduction

The Government says that, consistent with the objective of the increased threshold applying to newly acquired assets, it is not intended that assets acquired under artificial or contrived arrangements have access to the increased threshold, or for that matter to the existing arrangements. An example of an arrangement of this kind is one where a number of related small business entities that earned income from similar income sources sold their assets to one another in order to satisfy the “first acquired” requirement and write off the full value of those assets under the increased threshold.

While a specific provision has not been included under the amendments in the Bill for artificial or contrived arrangements, the Government says the general anti-avoidance provisions are intended to be applied to arrangements of that kind. The explanatory memorandum says: “In the event of evidence that small business entities systematically engaged in artificial or contrived arrangements designed to take advantage of the increased threshold and the general anti-avoidance provisions became too administratively difficult to apply, retrospective amendments to explicitly prohibit such behaviour would be considered to ensure that the integrity of the small business capital allowance provisions is maintained.”

Date of effect

The changes would apply only to assets first acquired at or after 7.30 pm, legal time in the ACT, on 12 May 2015, and first used or installed ready for use on or before 30 June 2017. Assets that do not satisfy these timing requirements would continue to be subject to the existing $1,000 threshold.

Previous announcement

The changes were announced in the 2015–2016 Federal Budget.

Primary producers

The Bill would amend ITAA 1997 to allow taxpayers carrying on a primary production business to claim an immediate deduction for capital expenditure on water facilities and fencing assets, and to deduct capital expenditure on fodder storage assets over three years.

Key features

- Primary producers may deduct capital expenditure on a fodder storage asset over three years. Previously, a primary producer could deduct the capital expenditure on a fodder storage asset over the effective life of the asset. The availability of accelerated depreciation would be limited to capital expenditure incurred on the construction, manufacture, installation or acquisition of a fodder storage asset if that expenditure was incurred primarily and principally for use in a primary production business conducted on land in Australia.
  - A repair of a capital nature or an alteration, addition or extension, to an asset or a structural improvement that is primarily and principally for the purpose of storing fodder will be a separate depreciating asset, ensuring that deductions for capital expenditure on those assets are not denied solely by the operation of ss 40-50 and 40-555.
- Primary producers may deduct capital expenditure on a "water facility" (which retains its existing meaning as defined in s 40-520) in the year in which the expenditure is incurred. Previously, primary producers and irrigation water providers could deduct capital expenditure on water facilities over three years.
  - These amendments apply to irrigation water providers in addition to primary producers. This continues the existing equivalence of treatment of irrigation water providers and primary producers for deductions of capital expenditure on water facilities.
- Primary producers may deduct capital expenditure on a fencing asset in the year in which the expenditure is incurred. A fencing asset is an asset or structural improvement that is a fence, or a repair of a capital nature, or an alteration, addition or extension, to a fence. The availability of accelerated depreciation would be limited to capital expenditure incurred on the construction, manufacture, installation or acquisition of a fencing asset if that expenditure was incurred primarily and principally for use in a primary production business conducted on land in Australia.
- A primary production business includes a business to cultivate plants, maintain animals, conduct fishing operations or fell trees. The full definition is contained in s 995-1(1).
- The amendments will be included in Div 40-F and operate as an exception to the general rules applying to deductions of capital expenditure on depreciating assets contained in Div 40.

Date of effect

The amendments would apply to assets that an entity starts to hold, or to expenditure an entity incurs, at or after 7.30 pm, by legal time in the ACT, on 12 May 2015.

Previous announcement

The changes were announced in the 2015–2016 Federal Budget.

Source: Tax Laws Amendment (Small Business Measures No 2) Bill 2015, http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;page=0;query=BillId%3Ar5466%20Recstruct%3Abillhome .

[**Postscript**: At the time of publication, the Bill had passed all stages of Parliament without amendment and was effectively awaiting Royal Assent.]

Dependent spouse tax offset to be abolished

The *Tax and Superannuation Laws Amendment (2015 Measures No 1) Bill 2015* has been introduced. It proposes to amend ITAA 1936 and ITAA 1997 to:

- repeal the provisions providing an entitlement to the dependent spouse tax offset (DSTO), and associated cross references to the DSTO contained in other provisions in the tax law;

- expand the dependent (invalid and carer) tax offset (DICTO) by repealing the provision excluding spouses covered by the DSTO from being covered by DICTO;
- remove the DSTO and instead allow the DICTO to be claimed as a component of the zone tax offset (ZTO), overseas civilians tax offset (OCTO) and overseas forces tax offset (OFTO); and
- rewrite the notional tax offsets contained in ITAA 1936 covering children, students and sole parents (which are used for calculating components of ZTO, OCTO and OFTO) into ITAA 1997 and update cross references to reflect the rewrite.

Under the changes:

- a taxpayer who has a spouse who is genuinely unable to work due to invalidity or carer obligations will be eligible for DICTO (worth up to $2,471 [indexed]) if they contribute to the maintenance of the spouse and meet certain income tests and other eligibility criteria; and
- taxpayers eligible for the ZTO, OFTO or OCTO can receive a further entitlement of 50% or 20% of their DICTO entitlement as a component of ZTO, OFTO or OCTO depending on where they reside.

A number of technical amendments to the DICTO are proposed to ensure it operates as intended.

Date of effect

The amendments generally apply to the 2014–2015 income year and to all later income years. The technical amendments apply to the 2012–2013 income year, and to all later income years that align with the introduction of the DICTO.

Previous announcement

The measure was announced in the 2014–2015 Budget.

Other amendments

The Bill also proposes the following amendments:

- **Finalisation of the Investment manager regime (IMR)** – The Bill amends ITAA 1997 to implement the third and final element of the IMR reforms. In addition, these amendments make some changes to the existing regime. The IMR reforms are designed to attract foreign investment to Australia and promote the use of Australian fund managers by removing tax impediments to investing in Australia. The development and introduction of an IMR was a recommendation of the 2009 Australian Financial Centre Forum report, *Australia as a Financial Centre: Building on our Strengths*, commonly known as “the Johnson Report”.
- **Modernisation of the Offshore banking unit (OBU) regime** – The Bill makes a number of reforms to modernise the OBU regime. The reforms include measures implementing recommendations of the Johnson Report, and targeted amendments to address a number of integrity concerns with the existing regime.
- **Income tax exemption for the Global Infrastructure Hub Ltd** – The Bill amends ITAA 1997 to exempt the Global Infrastructure Hub Ltd from liability to pay income tax on ordinary income and statutory income.
- **Cessation of the First Home Saver Accounts (FHSAs) Scheme** – The Bill repeals the legislation providing for the FHSAs Scheme, including the related tax concessions.
- **Update of deductible gift recipients (DGRs) list** – The Bill amends ITAA 1997 to update the list of DGRs. The changes will extend the listing of the Australian Peacekeeping Memorial Project Incorporated and the National Boer War Memorial Association Incorporated.
- **Miscellaneous amendments** – The Bill makes a number of miscellaneous amendments to taxation, superannuation and other laws. These amendments include style and formatting changes, the repeal of redundant provisions, the correction of anomalous outcomes and corrections to previous amending Acts.

Source: Tax and Superannuation Laws Amendment (2015 Measures No 1) Bill 2015, http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;page=0;query=BillId%3Ar5454%20Recstruct%3Abillhome .

R&D tax incentive rate reduction back in spotlight

The *Tax and Superannuation Laws Amendment (2015 Measures No 3) Bill 2015* has been introduced. It proposes to amend ITAA 1997 to:

- **reduce the rates of the tax offset available under the R&D tax incentive** for the first $100 million of eligible expenditure by 1.5 percentage points. The higher (refundable) rate of the tax offset will be reduced from 45% to 43.5% and the lower (non-refundable) rates of the tax offset will be reduced from 40% to 38.5%. Under the changes:

- eligible entities (i) with annual turnover of less than $20 million; and (ii) which are not controlled by an exempt entity or entities, may obtain a refundable tax offset equal to 43.5% of their first $100 million of eligible R&D expenditure in an income year and a further refundable tax offset equal to the amount by which their research and development expenditure exceeds $100 million multiplied by the company tax rate; and
- all other eligible entities may obtain a non-refundable tax offset equal to 38.5% of their eligible R&D expenditure and a further non-refundable tax offset equal to the amount by which their research and development expenditure exceeds $100 million multiplied by the company tax rate.
- **Date of effect:** the changes will apply to income years starting on or after 1 July 2014.

- **abolish the seafarer tax offset** – would repeal Subdiv 61-N.
  - **Date of effect**: will apply to assessments for 2015–2016 and later income years.

Both measures were announced in the 2014–2015 Federal Budget.

In the 2015–2016 Budget, the Government reiterated its intention to change the rates of assistance under the R&D tax incentive to 43.5% for eligible entities with a turnover under $20 million per annum (and not controlled by an income tax exempt entity) and 38.5% for all other eligible entities.

Source: Tax and Superannuation Laws Amendment (2015 Measures No 3) Bill 2015, http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;page=0;query=BillId%3Ar5456%20Recstruct%3Abillhome .

Age Pension changes on the way

The *Social Services Legislation Amendment (Fair and Sustainable Pensions) Bill 2015* has been introduced to give effect to several 2015–2016 Budget measures (and reintroduce some measures previously in 2014 Bills that are still before the Senate). In summary, the Bill proposes to amend the *Social Security Act 1991*, the *Veterans' Entitlements Act 1986*, ITAA 1997 and other Acts as follows:

- **Age Pension assets test** – increase the assets test free areas from 1 January 2017 but tighten the assets test taper rate at which the Age Pension begins to phase out.
- **Defined benefit schemes** – introduce a 10% cap on the "deductible amount" of defined benefit income streams (excluding military super schemes) for the purposes of the social security income test from 1 January 2016.
- **Age Pension while overseas** – reduce from 26 weeks to six weeks the time for which Age Pension recipients will be paid their basic means-tested rate while outside Australia.
- **Seniors Supplement** – replace the Seniors Supplement with the Energy Supplement.
- **Education Supplement** – cease the pensioner education supplement and the education entry payment.

Age Pension assets test

The Bill will amend the *Social Security Act 1991* and the *Veterans' Entitlements Act 1986* to increase the assets test threshold (or assets free area) for a single homeowner to $250,000 (up from $202,000) and $375,000 for a homeowner couple (up from $286,500) from 1 January 2017. The assets test threshold for non-homeowners will be increased to $200,000 more than homeowner pensioners; that is, $450,000 for a single and $575,000 for a couple.

Assets test taper rate

The assets test taper rate at which the Age Pension begins to phase out will be increased from $1.50 of pension per fortnight to $3.00 of pension for each $1,000 of assets over the relevant assets test threshold. This measure will essentially restore the $3.00 taper rate that was in place before 20 September 2007, when the then Government reduced it from $3.00 to $1.50 as part of the Simplified Superannuation measures.

The increased taper rate means that the maximum value of assets that a homeowner couple can hold to qualify for a part pension will be reduced from $1.151 million to approximately $823,000 from 1 January 2017 (or $547,000 for a single homeowner instead of the current $775,500). For a non-homeowner couple, the Age Pension will not phase out completely until $1.023 million (down from $1.298 million) or $747,000 (for a single non-homeowner instead of the current $922,000).

Note that indexation of the assets test free area will be paused for three years from 1 July 2017 under changes by the *Social Services and Other Legislation Amendment (2014 Budget Measures No 6) Act 2014*. Accordingly, the Bill will repeal those provisions from the 2014 Budget Measures No 6 Act to ensure the assets limits for pensions are not paused.

Seniors Health card guaranteed

Those whose pension is cancelled as a result of the asset test changes from 1 January 2017 will automatically be issued with a Commonwealth Seniors Health Card (CSHC), or a Health Care Card for those under pension age. Veterans whose service pension is cancelled under this measure will retain their Veterans' Affairs Gold Card. The usual income test applying to such cards will be disregarded for this purpose.

Pensioners who are overseas at 1 January 2017 but would otherwise qualify for a card will be automatically issued such a card upon their return, provided they return within 19 weeks of leaving Australia. Pensioners who are overseas at 1 January 2017 but return to Australia after 19 weeks will also qualify for a card if they have a nil rate of pension on 1 January 2017 as a result of these changes. However, the card will not be automatically issued. They will need to claim the card on their return.

Social Security assets test – current thresholds from 20 March 2015 (proposed from 1 January 2017)

	Homeowners		**Non-homeowners**	
Full pension/part pension	Single	Couple (combined)	Single	Couple (combined)
	$	$	$	$
Full pension – assets at or below	202,000	286,500	348,500	433,000
From 1 January 2017	(250,000)	(375,000)	(450,000)	(575,000)
No pension – assets at or above	775,500	1,151,500	922,000	1,298,000
From 1 January 2017	(547,000)	(823,000)	(747,000)	(1,023,000)

Notes:
a. Fortnightly pension reduces by $1.50 ($3.00 from 1 January 2017) for every $1,000 of assets above the relevant amount.
b. Cut-off asset values at which no pension is received may be higher if pensioner qualifies for rent assistance. Cut-off asset values are also higher for illness separated couples (or where one partner eligible).

Date of effect

The changes would come into effect on 1 January 2017.

Previous announcement

The Age Pension assets test measures were previously announced by the Minister for Social Services on 7 May 2015 ahead of the 2015–2016 Budget. At that time, Mr Morrison said that more than 90% (or 3.7 million pensioners) who receive pension linked payments would either be better off or have no change to their arrangements under these proposals. Mr Morrison said that more than 170,000 pensioners with modest assets would have their pensions increased by an average of more than $30 per fortnight should the proposed measure come into effect from January 2017. This would include around 50,000 part pensioners who would now qualify for a full pension under the changed rules. However, 91,000 current part pensioners would no longer qualify for the pension and a further 235,000 would have their part pension reduced.

The Minister said that all couples who own their own home with additional assets of less than $451,500 would get a higher pension. Couples who don't own their own home and have asset holdings up to $699,000 in January 2017 would be better off. For singles the maximum threshold point, below which pensioners would be better off, would be $289,500 for home owners and $537,000 for non-homeowners.

Defined benefit schemes: 10% cap on deductible amount

The Bill will amend ss 1099A and 1099D of the *Social Security Act 1991* to put a 10% cap on the "deductible amount" for pension income received from a defined benefit superannuation scheme (excluding military super schemes) for the purposes of the social security income test. Currently, some defined benefit

superannuants can have a large proportion of their superannuation income (ie the “deductible amount”) excluded from the pension income test. The deductible amount is calculated by reference to the tax-free component of the amount payable under the defined benefit income stream.

The proposed 10% cap seeks to close an unintended loophole that opened up in 2007 thanks to some legislative changes to ITAA 1997 which resulted in an increase to the tax-free component for some individuals. This had the effect of increasing the deductible amount for the purpose of the Social Security Act, resulting in individuals becoming entitled to income support payments.

Exclusions

Recipients of Veterans’ Affairs pensions and defined benefit income streams paid by military superannuation funds (ie “military defined benefit income streams”) would be exempt from this measure. In addition, the measure would not affect the means test treatment of income streams purchased for retail providers of these products. For example, AMP, AXA and funds of that nature, self managed superannuation funds (SMSFs) and small APRA funds do not operate in this way.

Date of effect

The measure would apply from 1 January 2016.

Previous announcement

The measure was previously announced by the Minister for Social Services on 7 May 2015 ahead of the 2015–2016 Budget. At that time, Mr Morrison said that this “loophole” was allowing around 48,000 high-income members from some public sector and large corporate defined benefits superannuation schemes to effectively fly “under the radar” on the income test for the pension. A defined benefit income stream is a pension paid from a public sector or other corporate defined benefit superannuation fund where the pension paid generally reflects years of service and the final salary of the beneficiary.

For most people with a defined benefit income stream, the Minister said that the gross income they receive from those schemes is subject to the income test for the pension. However, for those who are part of some large state government public sector schemes, significant portions of their income are disregarded in assessing their eligibility for a pension under the income test. The reason for that is to reflect what is seen as the voluntary after-tax contributions made when they were working. However, the amounts being deducted in these cases are in excess of those “notional contributions”, Mr Morrison said.

Age Pension access while overseas

The Bill proposes to reduce from 26 weeks to six weeks the length of time for which recipients of Age Pension (and a small number of other payments with unlimited portability) would generally be paid their basic means-tested rate while outside Australia. After six weeks’ absence from Australia, pensioners who have lived in Australia for less than 35 years would be paid at a reduced rate proportional to their period of Australian Working Life Residence (AWLR). The AWLR (known as the “35 years rule”) is the period a person has lived in Australia, as a permanent resident, between the age of 16 years and Age Pension age. To retain the basic means-tested rate while overseas, a person needs 35 years' working life residence in Australia.

Date of effect

The amendments would commence from 1 January 2017 but only apply to absences starting on or after that date. Pensioners who are overseas on 1 January 2017 would continue to be allowed the full 26-week period of absence before their payment was potentially reduced.

Previous announcement

This measure was previously announced in the 2015–2016 Budget.

Energy Supplement replacing Seniors Supplement

The Bill proposes to cease payment of the Seniors Supplement for holders of the CSHC or Veterans’ Affairs Gold Card by reintroducing the measure in the *Social Services and Other Legislation Amendment (Seniors Supplement Cessation) Bill 2014*. Consequential amendments to ss 52-10, 52-40 and 52-65 of ITAA 1997 would also replace references to the tax-exempt Seniors Supplement with references to the Energy Supplement.

Date of effect

There would be a new start date of 20 June 2015 (meaning that the last quarterly payment of the Seniors Supplement would generally be made on 20 June 2015).

Education Supplement

The Bill reintroduces the measures from Sch 4 and Sch 5 to the *Social Services and Other Legislation Amendment (2014 Budget Measures No 4) Bill 2014* to cease the pensioner education supplement and the education entry payment.

Date of effect

There would be a new start date of 1 January 2016.

Source: Social Services Legislation Amendment (Fair and Sustainable Pensions) Bill 2015, http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;page=0;query=BillId%3Ar5485%20Recstruct%3Abillhome .

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