

2010-2011-2012-2013

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

TAX LAWS AMENDMENT (2013 MEASURES NO. ##) BILL 2013

EXPLANATORY MEMORANDUM

(Circulated by the authority of the
Assistant Treasurer, the Hon David Bradbury MP)

Glossary

The following abbreviations and acronyms are used throughout this explanatory memorandum.

<i>Abbreviation</i>	<i>Definition</i>
ATI	Adjusted taxable income
DSTO	Dependent spouse tax offset
ITAA 1936	<i>Income Tax Assessment Act 1936</i>
ITAA 1997	<i>Income Tax Assessment Act 1997</i>
MLA 1986	<i>Medicare Levy Act 1986</i>
NMETO	Net medical expenses tax offset

General outline and financial impact

Consolidating the dependency offsets

Schedule ## of the Bill amends:

- the *Income Tax Assessment Act 1997* (ITAA 1997) to create a new, consolidated dependency offset for taxpayers maintaining certain classes of dependants who are genuinely unable to work;
- the *Income Tax Assessment Act 1936* (ITAA 1936) to preserve the existing dependency offsets for taxpayers eligible for the zone, overseas forces and overseas civilians tax offsets; and
- the ITAA 1936 to reflect the impact of the consolidation of the dependency offsets on the net medical expenses tax offset.

Date of effect: These changes will apply for the 2012-13 and later income years.

Proposal announced: This measure was announced in the 2012-13 Budget.

Financial impact: This measure will have the following revenue implications:

<i>2012-13</i>	<i>2013-14</i>	<i>2014-15</i>	<i>2015-16</i>
-\$2.9 m	\$24.9 m	\$24.9 m	\$20.0 m

Human rights implications: This Schedule does not raise any human rights issue. See *Statement of Compatibility with Human Rights* — Chapter [#], paragraphs [## to ##].

Compliance cost impact: Negligible.

Consolidating the dependency offsets

Outline of chapter

- 1.1 Schedule ## of the Bill amends:
- the *Income Tax Assessment Act 1997* (ITAA 1997) to create a new, consolidated dependency offset for taxpayers maintaining certain classes of dependants who are genuinely unable to work;
 - the *Income Tax Assessment Act 1936* (ITAA 1936) to preserve the existing dependency offsets for taxpayers eligible for the zone, overseas forces and overseas civilians tax offsets; and
 - the ITAA 1936 to reflect the impact of the consolidation of the dependency offsets on the net medical expenses tax offset.

Context of amendments

1.1 The Government announced in the 2012-13 Budget that they would consolidate eight existing dependency offsets into a single offset that is only available to taxpayers who maintain a dependant who is unable to work due to invalidity or care obligations.

1.2 The dependency offsets are currently contained in the ITAA 1936 and are available for taxpayers who maintain certain classes of dependants, which are invalid spouse, carer spouse, housekeeper, housekeeper (with child), child-housekeeper, child-housekeeper (with child), invalid relative and parent/parent-in-law .

1.3 Taxpayers may receive more than one dependency offset provided that each dependency offset is claimed in respect of a different dependant. For example, a taxpayer who maintains an invalid spouse and an invalid parent-in-law may receive both the invalid spouse and the invalid parent-in-law tax offsets. By contrast, a taxpayer may not receive a carer spouse and invalid spouse tax offset for the same spouse in the same income year.

1.4 The taxpayer is entitled to the maximum dependency offset if the dependant has an adjusted taxable income (ATI) of \$282 or less for the period of dependency. ATI has the meaning defined in section 159J of the ITAA 1936 and includes taxable income, reportable employer superannuation contributions, deductible superannuation contributions, adjusted fringe benefits, certain tax-free government pensions or benefits, target foreign income and net investment losses, less child support payments paid to another person.

1.5 The maximum amount of the dependency offset is reduced by \$1 for every \$4 the dependant's ATI exceeds \$282. Based on the maximum amount available for the highest value dependency offset, this means that the dependency offset is fully phased out when the dependant's ATI exceeds \$9,974 for the period of dependency during the 2012-13 income year.

1.6 The maximum amount of dependency offset is indexed each year with reference to the All Groups Consumer Price Index (CPI) number in accordance with section 159HA of the ITAA 1936.

1.7 Taxpayers cannot receive a tax offset for an invalid spouse, carer spouse, housekeeper or child housekeeper for any part of the income year that they are a member of a Family Tax Benefit (Part B) family without shared care, or the taxpayer or their spouse receives parental leave pay, as stated in sections 159JA (rebate for dependants – reductions because of certain other benefits) and section 159LA (rebate for housekeepers – reduction because of certain other benefits) of the ITAA 1936.

- Taxpayers cannot receive the dependency offset in respect of a spouse if the taxpayer's ATI is more than the income limit for Family Tax Benefit (Part B).
- Taxpayers cannot receive the dependency offset in respect of any other class of dependant if the combined ATI of the taxpayer and taxpayer's spouse is more than the income limit for Family Tax Benefit (Part B).

1.8 The income limit for Family Tax Benefit (Part B) is defined in s159J(6) of the ITAA 1936 as the amount specified in subclause 28B(1) of Schedule 1 to the *A New Tax System (Family Assistance) Act 1999*, and is indexed under Schedule 4 to that Act. In 2012-13, the income test for Family Tax Benefit (Part B) is ATI of \$150,000.

Interaction with other concessional tax offsets

1.9 Eligibility for a dependency offset is relevant in determining the amount of a taxpayer's other concessional tax offsets. These other offsets are the:

- zone tax offset (provided for in section 79A of the ITAA 1936), which is available to residents of remote or isolated locations that are prescribed in Schedule 2 to the ITAA 1936;
- overseas forces tax offset (provided for in section 79B of the ITAA 1936), which is available to Australian Defence Force personnel who have served at overseas locations specified by the Treasurer pursuant to subsection 79B(5) of the ITAA 1936; and
- overseas civilian tax offset (provided for in section 23AB of the ITTA 1936), which is available to personnel who have served under the control of the United Nations and are prescribed in Regulation 6 of the *Income Tax Regulations 1936*.

1.10 The dependency offsets are used to calculate the base amount, which forms part of the zone, overseas forces and overseas civilian tax offsets.

1.11 If a taxpayer is entitled to receive one of these three offsets, there will be no change to their dependency offset entitlements as a result of the amendments in Schedule ##. These taxpayers will continue to access the existing dependency offsets in their own right, and will also continue to receive a proportion of the dependency offsets as a component of their zone, overseas forces or overseas civilian tax offset.

Interaction with the net medical expenses tax offset (NMETO)

1.12 Section 159P of the ITAA 1936 provides for taxpayers to claim an offset for eligible net medical expenses for certain dependants including those in respect of whom a taxpayer may receive a dependency offset.

1.13 The NMETO provides taxpayers with a 20 per cent non-refundable tax offset for eligible out of pocket medical expenses (that is, medical expenses less available reimbursements, such as Medicare and private health insurance refunds) above the claim threshold (\$2,120 in 2012-13).

Summary of new law

Consolidated dependency offset

1.14 From 2012-13, eight existing dependency offsets will be consolidated into a single, streamlined and non-refundable offset that is only available to taxpayers maintaining certain classes of dependants who are genuinely unable to work due to invalidity or care obligations. This new offset will be called the ‘Dependant (Invalid and Carer) Tax Offset’.

1.15 A taxpayer may only receive an amount of the Dependant (Invalid and Carer) Tax Offset if they contribute to the maintenance of their spouse, relative or spouse’s relative, who is genuinely unable to work due to invalidity or care obligations.

1.16 Consequently, a taxpayer may no longer receive an amount of offset in respect of a housekeeper or child-housekeeper, as they would not meet the requirement of maintaining a dependant who is genuinely unable to work.

1.17 The Dependant (Invalid and Carer) Tax Offset is equal to the highest value existing dependency offset, which is \$2,423 in 2012-13, and will be indexed annually in line with CPI pursuant to Subdivision 960-M of the ITAA 1997.

1.18 A taxpayer may receive an amount of Dependant (Invalid and Carer) Tax Offset if the ATIs of the taxpayer, the taxpayer’s spouse and the dependant in respect of whom the offset is being claimed meet the respective income requirements.

1.19 A taxpayer may receive a reduced amount of Dependant (Invalid and Carer) Tax Offset if the taxpayer was a member of a Family Tax Benefit (Part B) family, or if the taxpayer or taxpayer’s spouse received parental leave payment under the *Paid Parental Leave Act 2010* for only part of a year.

1.20 Taxpayers may receive multiple amounts of the Dependant (Invalid and Carer) Tax Offset, when it is in respect of more than one dependant (other than the taxpayer’s spouse) who is genuinely unable to work.

Preserving the existing dependency offset for recipients of the zone, overseas civilian and overseas forces tax offsets and the dependent spouse tax offset

1.21 Taxpayers who are eligible for the zone, overseas forces or overseas civilian tax offsets, will experience no change to their current offset entitlement. These taxpayers: may maintain dependants who are able to work; engage housekeepers and maintain child housekeepers; and will continue to receive their dependency offset entitlements in their own right, and as an additional component of their zone, overseas forces or overseas civilian tax offset entitlement. Eligibility for these offsets will continue to be determined by the ITAA 1936.

1.22 There is no change to the amount or the eligibility requirements for the dependent spouse tax offset (DSTO). Aside from recipients of the zone, overseas forces or overseas civilian tax offsets, eligibility for the DSTO is limited to taxpayers who contribute to the maintenance of a spouse born before 1 July 1952.

1.23 A taxpayer who maintains an invalid spouse or a carer spouse who was born before 1 July 1952 would be eligible to receive an amount of DSTO, rather than an amount of the Dependant (Invalid and Carer) Tax Offset, in respect of that spouse.

Interaction with the NMETO

1.24 In determining the amount of NMETO a taxpayer may receive with respect to the 2012-13 and future income years, a taxpayer will be able to include the net medical expenses of a dependant who is a relative, spouse’s relative or parent or spouse’s parent who is genuinely unable to work due to invalidity or care obligations.

1.25 Taxpayers eligible for the zone, overseas forces or overseas civilian tax offset will not experience any change to their NMETO entitlements.

Comparison of key features of new law and current law

<i>New law</i>	<i>Current law</i>
The invalid spouse, carer spouse, invalid relative, and parent/parent-in-law offsets will be consolidated into the Dependant (Invalid and Carer) Tax Offset from the 2012-13 income year.	A taxpayer who maintains a class of dependant (invalid spouse, carer spouse, housekeeper, housekeeper (with child), child-housekeeper, child-housekeeper (with child), invalid relative, parent/parent-in-law)

<p>A taxpayer will only be able to receive the Dependant (Invalid and Carer) Tax Offset if they maintain a dependant who is genuinely unable to work due to invalidity or care obligations during an income year.</p> <p>A taxpayer will no longer be able to receive a tax offset in respect of a child-housekeeper, child-housekeeper (with child), housekeeper or housekeeper (with child) as they will not meet requirement of being genuinely unable to work.</p>	<p>during an income year may be able to receive an amount of dependency offset.</p>
<p>A taxpayer may receive more than one amount of Dependant (Invalid and Carer) Tax Offset, as long as each amount is in respect of a different dependant (but not in respect of multiple spouses).</p>	<p>A taxpayer may receive more than one dependency offset as long as each offset is received in respect of a different individual (but not in respect of multiple spouses).</p>
<p>The maximum amount of the Dependant (Invalid and Carer) Tax Offset for 2012-13 is \$2,423, which is higher than the maximum offset amounts for invalid relative and parent/parent-in-law.</p>	<p>The maximum offset amount varies depending on which dependency offset a taxpayer is entitled to.</p>
<p>A taxpayer is entitled to include the net medical expenses of a dependant who is a relative, spouse's relative, parent or spouse's parent who is genuinely unable to work due to invalidity or care obligations as part of their NMETO claim.</p>	<p>A taxpayer is entitled to include the net medical expenses of a dependant who is a relative, spouse's relative, parent or spouse's parent, child-housekeeper, child-housekeeper (with child), housekeeper, or housekeeper (with child), as part of their NMETO claim.</p>
<p>A taxpayer who maintains a dependant and who is eligible for the zone, overseas forces or overseas civilian tax offset will experience no change to their offset entitlements or amounts.</p>	<p>A taxpayer who maintains a dependant and who is eligible for the zone, overseas forces or overseas civilian tax offset can receive an amount of dependency offset as part of their zone, overseas forces or overseas civilian tax offset entitlement.</p>

Detailed explanation of new law

Consolidated dependency offset

1.26 These amendments introduce a new tax offset, which will be available to eligible taxpayers maintaining certain classes of dependants who are genuinely unable to work due to invalidity or care obligations. *[Schedule #, Item 1, Subdivision 61-A of the ITAA 1997].*

1.27 This offset can be called the Dependant (Invalid and Carer) Tax Offset.

Eligibility for the Dependant (Invalid and Carer) Tax Offset

1.28 A taxpayer may be entitled to this offset for an income year if, during that year, they contributed to the maintenance of an eligible dependant.

- Where the taxpayer and the dependant reside together, the taxpayer would generally be considered to have contributed to the maintenance of that dependant.
- This does not, however, limit the circumstances whereby a taxpayer may be found to contribute to the maintenance of an eligible dependant.

1.29 An eligible dependant may include:

- a taxpayer's spouse, parent, child (over the age of 16), brother or sister (over the age of 16); who is genuinely unable to work due to invalidity; or
- the taxpayer's spouse's parent, brother or sister (over the age of 16), who is genuinely unable to work due to invalidity; or
- a taxpayer's spouse or parent/parent-in-law, who is genuinely unable to work due to care obligations *[Schedule #, Item 1, section 61-10 of the ITAA 1997].*

1.30 A dependant is considered to be genuinely unable to work due to invalidity where that person receives: a disability support pension or a special needs disability support pension under the *Social Security Act 1991*; or an invalidity service pension under the *Veterans' Entitlements Act 1986*. *[Schedule #, Item 1, subsection 61-10(2) of the ITAA 1997].*

1.31 A dependant is considered to be genuinely unable to work due to care obligations if they are:

- receiving a carer payment or carer allowance under the *Social Security Act 1991*;
- or they are wholly engaged in providing care to a relative who receives: a disability support pension or a special needs disability pension under the *Social Security Act 1991*, or an invalidity service pension under the *Veterans' Entitlements Act 1986*. [*Schedule #, Item 1, subsections 61-10(3) and (4) of the ITAA 1997*].

1.32 Example 1.1

Peter and Loretta have a son called Adam who is over the age of 16 and receives a part-rate disability support pension. Loretta does not work as she cares for Adam. Peter may be able to claim amounts of the Dependant (Invalid and Carer) Tax Offset in respect of Loretta, who is unable to work due to her care obligations, and Adam who is unable to work due to invalidity.

1.33 An eligible dependant must be an Australian resident, unless they are the taxpayer's spouse or child. A non-resident spouse or child is an eligible dependant if the taxpayer has a domicile in Australia. This condition replicates the eligibility in section 159J (rebates for dependants) of the ITAA 1936. [*Schedule #, Item 1, paragraph 61-10(1)(c) of the ITAA 1997*].

1.34 A taxpayer may receive more than one amount of Dependant (Invalid and Carer) Tax Offset in an income year if they maintain more than one eligible dependant (other than a spouse) during that income year. [*Schedule #, Item 1, subsection 61-10(5) of the ITAA 1997*].

1.35 Where a taxpayer maintains two or more spouses in respect of whom the taxpayer may be eligible for an amount of either the DSTO or the Dependant (Invalid and Carer) Tax Offset, the taxpayer may receive an amount of offset in respect of the spouse with whom the taxpayer resides. [*Schedule #, Item 1, subsection 61-15(1) of the ITAA 1997*].

1.36 A taxpayer may not reside with any of the spouses who are genuinely unable to work due to invalidity or care obligations, or may reside with more than one of these spouses. In this situation, the taxpayer would need to determine the amount of either the DSTO or the Dependant (Invalid and Carer) Tax Offset that they could receive in respect of each spouse, and then claim the smallest of those amounts. [*Schedule #, Item 1, subsection 61-15(2) of the ITAA 1997*].

Eligibility subject to income testing

1.37 Eligibility for the Dependant (Invalid and Carer) Tax Offset is income tested according to the ‘income limit for family assistance purposes’ [*Schedule #, Item 1, subsection 61-20(1) of the ITAA 1997*].

1.38 This income testing is based on the adjusted taxable income (ATI) of the taxpayer where the offset is claimed in respect of a spouse, or the combined ATI of the taxpayer and the taxpayer’s spouse where it is claimed in respect of any other class of dependant.

1.39 The relevant ATI threshold for income testing of the offset is \$150,000 in 2012-13 as per subclause 28B(1) of Schedule 1 to the *A New Tax System (Family Assistance) Act 1999*.

Example 1.2

Mel and Yot are married and have a combined ATI of \$160,000 in 2012-13. Mel does not work as she cares for her father who receives an invalidity service pension. Yot is unable to claim the Dependant (Invalid and Carer) Tax Offset in respect of Mel, as their combined ATI is more than \$150,000 in 2012-13.

1.40 If the taxpayer had a spouse for only part of the year, the spouse’s ATI for offsets is pro-rated on the proportion of the year that the spouse was partnered with the taxpayer. [*Schedule #, Item 1, subsection 61-20(2) of the ITAA 1997*].

1.41 If the taxpayer had different spouses during different parts of the year, the spouses’ ATI for offsets are pro-rated on the proportion of the year that those spouses were partnered with the taxpayer. [*Schedule #, Item 1, subsection 61-20(3) of the ITAA 1997*].

1.42 A taxpayer is not entitled to the Dependant (Invalid and Carer) Tax Offset in respect of a spouse for a period the income year if they or their spouse received Family Tax Benefit (Part B) without shared care. [*Schedule #, Item 1, section 61-25 of the ITAA 1997*].

Amount of the Dependant (Invalid and Carer) Tax Offset

1.43 For each eligible dependant, the maximum amount of the Dependant (Invalid and Carer) Tax Offset is \$2,423. The amount is indexed annually in line with the All Groups CPI number pursuant to subdivision 960-M of the ITAA 1997. [*Schedule #, Item 1, subsection 61-30 of the ITAA 1997 and Schedule #, Item 8, section 960-265 of the ITAA 1997*].

1.44 Depending on whether certain circumstances arise, the amount of the Dependant (Invalid and Carer) Tax Offset that the taxpayer is eligible for may be reduced in certain circumstances.

1.45 These reductions are determined in a particular order and none, some or all may apply, which are set out below.

Reduction for shared care arrangements

1.46 A taxpayer or their spouse may have shared care arrangements for a child. Under a shared care arrangement, two or more adults who care for a child, and who are not members of the same couple, may each be eligible for Family Tax Benefit (Part B) provided that each adult cares for the child between 35 per cent and 65 per cent of the care period.

1.47 Where a taxpayer or taxpayer's spouse had shared care arrangements for a child for which they are receiving Family Tax Benefit (Part B), then the amount of Dependant (Invalid and Carer) Tax Offset is multiplied by the ratio of the shared care rate of Family Tax Benefit (Part B). This ensures that a taxpayer who only has a partial eligibility for Family Tax Benefit (Part B) has a partial eligibility for the Dependant (Invalid and Carer) Tax Offset. [*Schedule #, Item 1, section 61-35 of the ITAA 1997*].

Example 1.6

Morten and Suzanna are married. Suzanna maintains Morten as an invalid spouse who is in receipt of a part invalidity pension. Morten has a daughter, Manuja, from his previous marriage to Tachelle. Morten and Tachelle share care of Manuja. Morten and Tachelle are each eligible to receive an amount of Family Tax Benefit (Part B) for Manuja. Morten's share care rate is determined to be 40 per cent.

Since Morten receives Family Tax Benefit (Part B) for a child with shared care, Suzanna may not receive the full \$2,423 of the Dependant (Invalid and Carer) Tax Offset in respect of Morten. Instead, the amount is reduced by the 40 per cent (or \$969) relevant to Morten's shared care of Manuja. As a result, Suzanna may receive 60 per cent of the Dependant (Invalid and Carer) Tax Offset for that income year, or \$1,453.

Reduction for part year eligibility

1.48 After reducing the maximum amount of the offset for shared care arrangements (where relevant and applicable), the amount of the offset otherwise allowable is further reduced in situations where a taxpayer may only be entitled to an amount of the Dependant (Invalid and Carer) Tax Offset for part of an income year.

1.49 The reduction to the amount of the offset is that which the Commissioner of Taxation considers to be a reasonable apportionment in the circumstances. [*Schedule #, Item 1, section 61-40 of the ITAA 1997*].

1.50 In coming to this decision, the Commissioner of Taxation must have regard to a number of factors including:

- whether the taxpayer or individuals other than the taxpayer contributed to the maintenance of the dependant during part of the year; and
- the type of dependant that the taxpayer is claiming the offset in respect of for part of the year. [*Schedule #, Item 1, subsection 61-40(2) of the ITAA 1997*].

Example 1.4

Chris and Ash are in a de-facto relationship. Chris cares for their son Ollie who is twenty-one, and who started to receive a disability support pension three months before the end of the income year. As Chris is only an eligible dependant for part of the year, Ash's maximum tax offset is apportioned accordingly: three months divided by twelve months multiplied by the full tax offset of \$2,423, or \$605.

Chris' ATI for the last three months of the income year is \$2,000, so Ash' maximum tax offset is further reduced by \$1 for every \$4 that Chris' ATI exceeds \$282: \$2,000 less \$282 is \$1,718, which is divided by four to give a reduction of \$429. The amount of offset that Ash may receive is \$605 less \$429, or \$176.

Example 1.5

Fred is married to Susie who cannot work due to the full time care of her invalid father. For three months of the income year, Fred and Susie are members of a family tax benefit (Part B) family without shared care. This represents 25 per cent of the full income year. Fred is not entitled to any tax offset for this part of the income year.

In determining the amount of tax offset to be allowed to Fred for the full income year, the Commissioner has regard to the circumstances that exist in the remaining part of the income year. In the absence of any other relevant factors, the Commissioner would determine the amount of the tax offset available to Fred for the income year to be \$1,817, or 75 per cent of the maximum offset amount of \$2,423, which is the full amount of tax offset available to Fred after disregarding that part of the income year in which he and Susie were members of a family tax benefit (Part B) family.

Reduction where the ATI of the dependant is over \$282 for a particular period

1.51 After reducing the maximum amount of the offset for shared care arrangements and part year eligibility (where relevant and applicable), the amount otherwise allowable is then reduced by \$1 for

each \$4 by which the eligible dependant's ATI for offsets for the period of dependency exceeds \$282. *[Schedule #, Item 1, subsection 61-45 of the ITAA 1997].*

1.52 The period of dependency means the time during the year that the taxpayer contributed to the maintenance of the other individual, which may be the whole year or part of the year.

Example 1.3

Mike and Sumita are married. Sumita does not work for the entire income year as she cares for her invalid brother Jarrod. Sumita has annual income of \$5,000. Mike and Sumita's combined ATI is \$105,000. Mike will be able to claim a Dependant (Invalid and Carer) Tax Offset of \$1,244 in respect of Sumita. This is less than the maximum, as the offset is reduced by \$1 of every \$4 that Sumita's income exceeds \$282.

Preserving the existing dependency offset for recipients of the zone, overseas civilian and overseas forces tax offsets and the dependent spouse tax offset

1.53 There is no change to the dependency offset entitlements of taxpayers who are eligible for the zone rebate (section 79A of the ITAA 1936) the overseas forces (section 79B of the ITAA 1936) rebate or the overseas civilian rebate (section 23AB of the ITAA 1936) *[Schedule #, Item 2, subsection 159(1F) of the ITAA 1936].*

1.54 Only taxpayers who are eligible for the zone, overseas forces or overseas civilian tax offsets may receive an amount of dependency offset in respect of a housekeeper or housekeeper (with child). *[Schedule #, Item 5, subsection 159L(3C) of the ITAA 1936].*

1.55 Taxpayers who are eligible for the zone, overseas forces, or overseas civilian tax offsets are not entitled to the Dependant (Invalid and Carer) Tax Offset. *[Schedule #, Item 1, paragraphs 61-10(1)(d) and (c) of the ITAA 1997].*

1.56 Taxpayers maintaining a dependent spouse born before 1 July 1952 will still be able to receive the DSTO. *[Schedule #, Item 2, subsection 159(1G) of the ITAA 1936].*

Example 1.7

Blair and Janine are in a de-facto relationship and reside in Townsville, which is in zone B for the purpose of the zone tax offset. Blair cares for his mother who is unable to work and who receives an invalid pension. Janine is precluded from claiming the Dependent (Invalid

and Carer) Tax Offset, because she resides in a zone tax offset area. Janine is, however, able to claim an amount of DSTO under the existing provisions. Janine is also able to receive an additional 20 per cent of her DSTO entitlement as part of her zone tax offset entitlement.

Interaction with the NMETO

1.57 These amendments expand the list of dependants for the purposes of determining the amount of NMETO a taxpayer may receive under section 159P of the ITAA 1936 to include a person with respect to which the taxpayer receives an amount of the new Dependant (Invalid and Carer) Tax Offset [*Schedule #, Item 6, paragraphs 159P(4)(e) and (f) of the ITAA 1936*].

Definitions

1.58 These amendments amend the definition of ‘invalid relative’ and ‘invalid spouse’ in the ITAA 1936 to ensure there is consistency in the offsets between the ITAA 1936 and the ITAA 1997 and to remove the current requirement for an invalid relative or invalid spouse to be issued a certificate by a medical officer of the Health Department or by a medical practitioner appointed by the Families Secretary. [*Schedule #, Item 3, subsection 159J(6) of the ITAA 1936 and Schedule #, Item 4, subsection 159J(6) of the ITAA 1936*].

1.59 This requirement is being removed because such certificates have not been issued in recent years and are no longer issued.

1.60 In order to ensure that the meaning of ATI is the same for the purposes of the ITAA 1997 and the ITAA 1936, these amendments also alter the definition of ‘ATI for offsets’ in subsection 995-1(1) of the ITAA 1997. [*Schedule #, Item 9, subsection 995-1(1) of the ITAA 1997*].

1.61 The table of tax offsets set out in the ITAA 1997 is being amended to include a reference to the Dependant (Invalid and Carer) Tax Offset in Subdivision 61-A under the table item headed ‘dependants’. [*Schedule #, Item 7, section 13-1 of the ITAA 1936*].

Application and transitional provisions

1.62 These amendments apply to assessments for the 2012-13 income year and later income years. [*Schedule #, Item 10*]

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

Schedule ## - Consolidating the dependency offsets

This Schedule is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview

Schedule ## amends:

- the *Income Tax Assessment Act 1997* to create a new, consolidated dependency offset for taxpayers maintaining certain classes of dependant who are genuinely unable to work;
- the *Income Tax Assessment Act 1936* to preserve the existing dependency offsets for taxpayers eligible for the zone, overseas forces and overseas civilians tax offsets; and
- the *Income Tax Assessment Act 1936* to reflect the impact of the consolidation of the dependency offsets on the net medical expenses tax offset.

Human rights implications

This Schedule does not engage any of the applicable rights or freedoms.

Conclusion

This Schedule is compatible with human rights as it does not raise any human rights issues.

The Hon David Bradbury, Assistant Treasurer