

EXPOSURE-DRAFT

1

EXPOSURE DRAFT

2

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Schedule 1	The day this Act receives the Royal Assent.	
2.		

3

Schedule 1—Rebate for medical expenses

4

5

Income Tax Assessment Act 1936

6

1 Subsection 6(1)

7

8

Insert:

9

10

11

12

adjusted taxable income for rebates means adjusted taxable income (within the meaning of the *A New Tax System (Family Assistance) Act 1999*, disregarding clauses 3 and 3A of Schedule 3 to that Act).

13

2 Subsection 6(1)

14

Insert:

15

16

family tier 1 threshold has the meaning given by the *A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Act 1999*.

17

3 Subsection 6(1)

18

Insert:

19

20

medical expense rebate higher phase-in limit has the meaning given by subsection 159NA(7).

21

4 Subsection 6(1)

22

Insert:

23

24

medical expense rebate lower phase-in limit has the meaning given by subsection 159NA(8).

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5 Subsection 6(1)

Insert:

rebatable medical expense amount has the meaning given by section 159P.

6 Subsection 6(1)

Insert:

singles tier 1 threshold has the meaning given by the *A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Act 1999*.

7 Section 159HA (heading)

Repeal the heading, substitute:

159HA Indexation for the purposes of this Subdivision

8 Subsection 159HA(1)

Omit “159P”, substitute “159NA”.

9 Subsection 159HA(7) (definition of *indexable amount*)

Repeal the definition, substitute:

indexable amount means:

- (a) an amount mentioned in column 1 of an item of the following table; or
- (b) if that amount has been altered under this section in relation to the year of income mentioned in column 2 of the item, or a later year of income—the altered amount:

Indexable amounts

Item	Column 1 Indexable amount	Column 2 First indexable year
1	the amount specified in: <ul style="list-style-type: none">(a) paragraph 23AB(7A)(a); or(b) paragraph (d) of the definition of <i>relevant rebate amount</i> in subsection 79A(4); or(c) paragraph (d) of the definition of <i>concessional rebate amount</i> in subsection 79B(6)	the 2008-09 year of income

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Indexable amounts

Item	Column 1	Column 2
	Indexable amount	First indexable year
2	an amount specified in subsection 159J(1B) or (2) (other than the amounts specified in column 3 of the table in subsection 159J(2) in respect of a dependant included in class 3 or 4)	the 2008-09 year of income
3	the amounts specified in subsection 159L(2)	the 2008-09 year of income
4	the amount specified in subsection 159NA(7) (medical expense rebate higher phase-in limit)	the 2013-14 year of income
5	the amount specified in subsection 159NA(8) (medical expense rebate lower phase-in limit)	the 2011-12 year of income

1 **10 Paragraphs 159J(1AB)(a) and (1AC)(a) and (b)**

2 Omit “adjusted taxable income”, substitute “adjusted taxable income for
3 rebates”.

4 **11 Paragraph 159J(1AC)(c) (formula)**

5 Repeal the formula, substitute:

6
$$\frac{\text{Spouse's adjusted taxable income for rebates for the year}}{\text{for the year}} \times \frac{\text{Numbers of days a spouse}}{\text{Number of days in the year}}$$

7 **12 Subsection 159J(1AC) (note)**

8 Omit “adjusted taxable income”, substitute “adjusted taxable income for
9 rebates”.

10 **13 Subsections 159J(4) and (5)**

11 Omit “adjusted taxable income”, substitute “adjusted taxable income for
12 rebates”.

13 **14 Subsection 159J(6) (definition of *adjusted taxable income*)**

14 Repeal the definition.

15 **15 After section 159N**

16 Insert:

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1 **159NA Rebate for medical expenses**

2 *Rebate*

3 (1) A taxpayer is entitled to a rebate of tax in the taxpayer's
4 assessment in respect of income of a year of income if one or more
5 rebatable medical expense amounts are applicable to the taxpayer
6 in respect of the year.

7 *Amount of rebate*

8 (2) The following table has effect:
9

Rebate amount			
Item	Column 1 If ...	Column 2 and ...	Column 3 the amount of the rebate is ...
1	on the last day of the year, the taxpayer has a spouse	the total of: (a) the taxpayer's adjusted taxable income for rebates for the year; and (b) the taxpayer's spouse's adjusted taxable income for rebates for the year; does not exceed the taxpayer's family tier 1 threshold for the year	20% of the amount by which the total of the rebatable medical expense amounts exceeds the medical expense rebate lower phase-in limit.
2	on the last day of the year, the taxpayer has a spouse	the total of: (a) the taxpayer's adjusted taxable income for rebates for the year; and (b) the taxpayer's spouse's adjusted taxable income for rebates for the year; exceeds the taxpayer's family tier 1 threshold for the year	10% of the amount by which the total of the rebatable medical expense amounts exceeds the medical expense rebate higher phase-in limit.
3	(a) on the last day of the year, the taxpayer does not	the taxpayer's adjusted taxable income for	20% of the amount by which the total of the

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Rebate amount			
Item	Column 1 If ...	Column 2 and ...	Column 3 the amount of the rebate is ...
	have a spouse; and (b) on any day in the year, the taxpayer has dependants, other than a dependant who is the taxpayer's spouse	rebates for the year does not exceed the taxpayer's family tier 1 threshold for the year	rebatable medical expense amounts exceeds the medical expense rebate lower phase-in limit.
4	(a) on the last day of the year, the taxpayer does not have a spouse; and (b) on any day in the year, the taxpayer has dependants, other than a dependant who is the taxpayer's spouse	the taxpayer's adjusted taxable income for rebates for the year exceeds the taxpayer's family tier 1 threshold for the year	10% of the amount by which the total of the rebatable medical expense amounts exceeds the medical expense rebate higher phase-in limit.
5	(a) on the last day of the year, the taxpayer does not have a spouse; and (b) the taxpayer has dependants on no day during the year, other than a dependant who is the taxpayer's spouse	the taxpayer's adjusted taxable income for rebates for the year does not exceed the taxpayer's singles tier 1 threshold for the year	20% of the amount by which the total of the rebatable medical expense amounts exceeds the medical expense rebate lower phase-in limit.
6	(a) on the last day of the year, the taxpayer does not have a spouse; and (b) the taxpayer has dependants on no day during the year, other than a dependant who is the taxpayer's spouse	the taxpayer's adjusted taxable income for rebates for the year exceeds the taxpayer's singles tier 1 threshold for the year	10% of the amount by which the total of the rebatable medical expense amounts exceeds the medical expense rebate higher phase-in limit.

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Spouses

- 1
- 2 (3) For the purposes of this section, if, at a time:
- 3 (a) 2 persons are spouses because of paragraph (a) or (b) of the
- 4 definition of *spouse* in subsection 995-1(1) of the *Income Tax*
- 5 *Assessment Act 1997*; and
- 6 (b) either or both of the persons is legally married to another
- 7 person, or in a relationship mentioned in paragraph (a) of that
- 8 definition with another person;
- 9 this section applies as if the person or persons were not legally
- 10 married to, or in a relationship mentioned in paragraph (a) of that
- 11 definition with, the other person.
- 12 (4) For the purposes of this section, a person is treated as not being a
- 13 spouse of another person at a time if, at that time, they are living
- 14 separately and apart.
- 15 (5) If:
- 16 (a) the last person (the *deceased*) who was a spouse of another
- 17 person during a year of income died during the year of
- 18 income; and
- 19 (b) the death occurred while they were spouses;
- 20 the living person is taken to be a spouse of the deceased during the
- 21 period starting on the day the deceased died and ending on 30 June
- 22 of the year of income.

Dependants

- 23
- 24 (6) Section 5 of the *A New Tax System (Medicare Levy Surcharge—*
- 25 *Fringe Benefits) Act 1999* (definition of *dependant*) applies in
- 26 relation to subsection (2) of this section in the same way as that
- 27 section 5 applies in relation to that Act.

Phase-in limits

- 28
- 29 (7) The *medical expense rebate higher phase-in limit* is \$5,000.
- 30 Note: This amount is indexed annually: see section 159HA.
- 31 (8) The *medical expense rebate lower phase-in limit* is \$2,000.
- 32 Note: This amount is indexed annually: see section 159HA.

Rebate—trustees of estates of deceased persons

- 33
- 34 (9) A trustee of the estate of a deceased person is entitled to a rebate of
- 35 tax in the assessment of the trustee upon the assessable income
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1 derived by the deceased person during the year of income in which
2 the deceased person died, if:

3 (a) the trustee pays an amount as medical expenses in respect of
4 a liability incurred by the deceased person in the deceased
5 person's lifetime; and

6 (b) the amount would have been a rebatable medical expense
7 amount if it had been paid by the deceased person during the
8 deceased person's lifetime.

9 (10) The amount of the rebate is equal to the rebate that would have
10 been allowable to the deceased person under this section in respect
11 of the amount mentioned in paragraph (9)(a) if it had been paid by
12 the deceased person during the year of income in which the
13 deceased person died.

14 **16 Section 159P (heading)**

15 Repeal the heading, substitute:

16 **159P Rebate for medical expenses—definition of *rebatable medical*** 17 ***expense amount***

18 **17 Subsections 159P(1) and (3)**

19 Omit “shall, for the purposes of this section, be treated as a rebatable
20 amount”, substitute “is a *rebatable medical expense amount*”.

21 **18 Subsections 159P(3A) and (3B)**

22 Repeal the subsections.

23 ***Income Tax Assessment Act 1997***

24 **19 Section 13-1 (table item headed “medical expenses”)**

25 Omit “159P”, substitute “159NA”.

26 **20 Application of amendments**

27 The amendments made by this Schedule apply to assessments for the
28 2012-13 year of income and later years of income.

29