PART II: REVENUE MEASURES

Table: Summary of Revenue Measures

Page		Estimated Change in Revenue(a)			
		1997-98 $m	1998-99 $m	1999-00 $m	2000-01 $m
	Measures introduced in the 1997-98 Budget				
	Income Tax				
165	Withholding tax arrangements	-	330	-	-
166	Medicare levy low income thresholds — 1997-98	-3	-35	-18	-18
167	Provisional tax exemption for pensioners	-5	-	-	-
167	Tax deductibility for Constitutional Convention election expenses	-	..	-	-
168	Deductibility of donations to the National Nurses Memorial Trust	*	*	*	*
168	Small Business Deregulation Task Force — Pay as you go proposal	-	-	-	-
169	Conversion of the CRAFT tax expenditure to outlays	-	35	45	55
170	Trust losses	5	15	20	20
172	Taxation of trusts	-	-	-	-
172	Limited partnerships	-	-	-	-
173	Taxation of distributions disguised as loans from private companies	2	50	30	30
175	Measures to prevent dividend streaming	-	†‡	†‡	†‡
176	Measures to prevent trading in franking credits	-	†‡	†‡	†‡
178	National Crime Authority investigations(b)	-	40	40	-
179	Introduction of the Infrastructure Borrowings tax rebate(c)	-38	-75	-75	-75
181	Tax exempt entities which become taxable — Notional depreciation	-	-	-	-
182	Hire purchase arrangements — Balancing adjustment on disposal	5	30	20	25
183	Sydney Olympic Games — Taxation issues	..	..	..	..
183	Demutualisations of non-insurance organisations — Development of a generic tax framework	*	*	*	*
184	Taxation of foreign source income	-	150	150	150
185	Passive income of life and general insurance companies	-	10	10	10
	Superannuation and Savings				
186	Taxation rebate for savings(d)	-	-350	-1370	-2040
187	Freezing the trustee tax rate for friendly societies	-6	-29	-4	2
188	Broadening the definition of 'complying' pensions and annuities in the Superannuation Industry (Supervision) Regulations	-	*	*	*
189	Choice of superannuation fund	-	-	-	-
191	Opting out of the Superannuation Guarantee system	-8	-10	-11	-12
192	Improvements to superannuation preservation arrangements	-	-	-35	-105
193	Increasing superannuation preservation age	-	-	-	-
193	Reforms to early release of superannuation benefits	-10	-10	-11	-11
	Capital Gains Tax				
194	Capital gains tax cost base provisions	5	80	120	125
195	Interaction of controlled foreign company measures and capital gains tax provisions	†	†	†	†
	Wholesale Sales Tax				
197	Wholesale sales tax — Change in temporary importation provisions	2	2	2	2
	Customs and Excise Duty				
197	Revenue savings through fuel substitution minimisation	13	25	25	25

Table: Summary of Revenue Measures continued

Page		Estimated Change in Revenue(a)			
		1997-98 $m	1998-99 $m	1999-00 $m	2000-01 $m
	Other Measures				
198	Increase in High Court fees	2	2	2	2
199	Australian Competition and Consumer Commission — New regulatory arrangements for telecommunications	1	2	2	2
199	Cost recovery by AUSTEL to implement telecommunications reform initiatives and for set up costs and new functions of the Australian Communications Authority	-	4	1	1
200	Cost recovery for the Australian Communications Authority to enhance administration of cabler licensing	..	..	..	..
200	Licence charges payable by telecommunications carriers to meet costs of monitoring industry development	1	1	1	1
201	Special dividend from Australia Post	80	80	-	-
201	Australian Competition and Consumer Commission — Gas regulation role	-	2	2	2
202	Cost recovery of funding for Airport Environment Officers and Airport Building Controllers at Federal airports subject to sale	1	1	1	1
203	Reform of the provision of legal services provided by the Attorney-General's Legal Practice to enhance contestability and competitiveness	-	6	9	9
203	Phased increase in industry contribution for the regulation of therapeutic goods	3	10	10	10
204	Increase in passport fees	5	6	9	13
204	Extension of the Migration Agents Registration Scheme	1	-	-	-
204	Increased cost recovery for citizenship processing	1	3	3	3
205	Rationalisation of temporary business entry visa sub-classes	3	4	4	5
205	Cost recovery for health assessments, health undertakings and medical reviews	3	3	3	3
206	Increased cost recovery for business skills migration	1	1	1	1
206	Merging of the Migration Internal Review Office and the Immigration Review Tribunal	2	2	2	2
207	Australian Quarantine and Inspection Services — Implementation of reports into quarantine and imported fish and fish products (industry charges)	5	7	7	7
		71	391	-1006	-1758
	Measures introduced up to the 1997-98 Budget(e)				
	Income Tax				
207	Medicare levy surcharge — Increase in family income threshold for each additional child by $1500	-3	-3	-3	-3
208	Medical Expenses Rebate — Reduction in threshold for eligible net medical expenses to $1250	-1	2	4	6
	Low income aged persons(f)	-1	15	-	-
208	Provisional tax uplift factor	-	-	-	-
209	Deductibility of gifts	*	*	*	*
	Deductions allowable to a co-operative company for the repayment of Government loans(f)	-1	-4	-7	-10
	Research and Development tax concession				
	— Syndication arrangements(f)	-15	-5	-5	-5
	— Registration procedures(f)	-5	-	-	-
	Exemption of income derived by bona fide prospectors(f)	-33	-20	-5	-
209	Preventing future access to the Infrastructure Borrowings tax concession	-	†	†	†
	Thin capitalisation — Change in commencement date(f)	-	..	..	..

Table: Summary of Revenue Measures continued

Page		Estimated Change in Revenue(a)			
		1997-98 $m	1998-99 $m	1999-00 $m	2000-01 $m
210	Taxation of foreign dividends paid on finance shares	†	†	†	†
	Superannuation				
211	Calculating life insurance companies' exempt and taxable income	†	†	†	†
	Capital Gains Tax				
	CGT rollover relief for small business				
	— Removal of like kind test and extension of time to 24 months(f)	-	-50	-55	-55
212	— Extension of rollover relief through shares	-	-90	-90	-90
212	CGT exemption on the sale of a small business for retirement — Extension to companies and trusts	-	-35	-35	-35
213	Capital losses — Denial of artificially created losses	-	†	†	†
	Fringe Benefits Tax				
214	Fringe benefits tax — Small business				
	— Record keeping	-5	-25	-20	-20
	— Car parking	-25	-50	-35	-35
	— Taxi travel	*	*	*	*
	Wholesale Sales Tax				
	Telecommunications equipment(f)	-	-	-	-
	Other Measures				
	Changes to the Migration Programme(f)	-25	-25	-25	-25
	Increased cost recovery in the Adult Migrant English Programme(f)	-6	-7	-7	-7
	Fees in Commonwealth Courts and Tribunals(f)	-5	-8	-8	-8
	Revised licence fee arrangements for commercial broadcasters(f)	-	..	..	..
	Funding for radiofrequency electromagnetic energy public health issues(f)	1	1	1	1
215	Retain the current maximum charge for English language tuition under the Adult Migrant English Programme	-2	-2	-2	-2
		-125	-306	-292	-288
	TOTAL IMPACT OF ALL REVENUE MEASURES(g)	-54	85	-1298	-2046

.. Not zero, but rounded to zero.

* The nature of the measure is such that a reliable estimate cannot be provided.

† The measure will protect the revenue base used for the forward estimates, by removing opportunities for significant future expansion of tax minimisation practices. In the absence of the measure, to the extent that the revenue base would not be protected, there would be a significant revenue loss compared to the forward estimates.

‡ The measure will result in unquantifiable revenue gains to the extent of existing tax minimisation.

(a) A minus sign before an estimate indicates a reduction in revenue; no sign before an estimate indicates a gain to revenue.

(b) This measure is listed under income tax as most of the additional revenue raised ($30m in both 1998-99 and 1999-2000) is in the form of additional income tax collections; the remainder of the additional revenue raised ($10m in both 1998-99 and 1999-2000) is in the form of increased recoveries of the proceeds of crime.

(c) Includes running costs for the programme.

(d) The measure will reduce outlays compared with forward estimates for matching Government superannuation contributions as described in the 1995-96 Budget. The net fiscal impact of implementing the savings rebate but not going ahead with matching Government superannuation contributions will be positive.

(e) Includes measures amended or rejected by the Senate up to the 1997-98 Budget.

(f) A description of the measure is provided in the *Mid-Year Economic and Fiscal Outlook 1996-97* and is not repeated in this document.

(g) Measures may not sum to totals due to rounding.

MEASURES INTRODUCED IN THE 1997-98 BUDGET

INCOME TAX

Withholding tax arrangements

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
–	330	–	–

Explanation

This measure involves changes to the Pay-As-You-Earn (PAYE), Prescribed Payments System (PPS) and the Reportable Payments System (RPS) withholding arrangements that will improve the overall integrity of the tax system and provide compliance cost reductions for many small businesses. These modifications represent a significant first step towards simplifying the range of withholding tax systems imposed on business, with a view to ultimately establishing an efficient, modern interface between the Australian Taxation Office (ATO) and the business taxpaying community. The changes, which relate to the timing and means of payment of income tax amounts withheld by business from payments of salaries, wages and other prescribed income, will result in a net revenue bring forward of $330 million in 1998-99.

For a large number of small businesses with an income tax withholding obligation, the timing of payment of withheld amounts will be relaxed. Arrangements whereby some employers are entitled to remit tax instalment deductions from employees once each quarter will be extended to a further 133,000 employers under the PAYE system and 178,000 businesses with obligations to deduct tax instalments under the PPS and the RPS. The option to remit quarterly, rather than monthly, will result in a reduction of paperwork and compliance costs for these small businesses. This will also result in a revenue deferral of $500 million in 1998-99.

Payments by large withholders are to be made earlier than is currently the case and by electronic means. This will result in a bring forward of remittances such that payments are made within an average time of 7 days from the date deductions are made from salaries, wages and other prescribed income. The revenue bring forward in 1998-99 will be $830 million. Under existing arrangements, most large businesses remit tax instalment deductions to the Commissioner of Taxation twice monthly, either electronically or through paper based systems.

Payment arrangements for other participants in the PAYE, PPS and RPS withholding arrangements will also be aligned. Those businesses which withhold income tax deductions under the PPS and RPS arrangements and which are required to remit deductions made during a month to the ATO by the 14th day of the following month will be required to remit those deductions instead by the 7th day of the following month. This is the same date that an employer who deducts tax instalments under the PAYE system is

required to remit to the Commissioner of Taxation. This measure will reduce compliance costs by aligning the payment obligations under the PAYE, PPS and RPS systems.

To effect these changes, the *Income Tax Assessment Act 1936* will be amended to:

- require large withholders to remit, by electronic means, tax deductions made under the PAYE, PPS and RPS arrangements from payments made on a Saturday, Sunday, Monday or Tuesday by the following Monday and to remit tax deductions made on a Wednesday, Thursday or Friday by the following Thursday;

- define a large withholder as an entity whose combined annual tax deductions under the PAYE, PPS and RPS arrangements exceed $1 million in 1996-97 or any following year. These withholders will remit under the new arrangements for any tax deductions made after 30 June 1998; and

- allow small withholders, whose annual tax deductions under the PAYE, PPS and RPS arrangements do not exceed $25,000 the option to remit tax deductions made after 30 June 1998 on a quarterly basis.

The company grouping provisions that exist under the law for PAYE remitters, and which serve to ensure that larger employers do not artificially rearrange their structures to fall below the thresholds, will be extended to cover the new arrangements.

The changes will not alter the scope of the payments covered by existing withholding tax arrangements or change the rates at which tax must be deducted from those payments.

Medicare levy low income thresholds — 1997-98

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
-3	-35	-18	-18

Explanation

When the Medicare levy was introduced in 1984, an exemption was provided for low income individuals and families who were eligible for free medical treatment prior to Medicare. The exemption for a single person has a lower income threshold than the exemption for a couple or a single parent. For couples and single parents, the thresholds increase by a set amount per child.

Consistent with the original objective, the Medicare levy low income thresholds for 1997-98 will be increased to $13,389 for individuals and $22,594 for couples and sole parents. The additional threshold for each dependent child is $2,100.

The increases in the individual, couple, and sole parent thresholds are in line with movements in the consumer price index.

Provisional tax exemption for pensioners

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
-5	–	–	–

Explanation

The Government is announcing the provisional tax exemption thresholds to apply for pensioners in respect of the 1997-98 income year.

Each year new levels of provisional tax exemption thresholds are set for single-rate, partnered-rate and partnered-illness-separated-rate pensioners. Generally, the thresholds for a year of income are the cut-out thresholds for the pensioner rebate (ie the level of taxable income at which the rebate reduces to nil) for the previous year.

Pensioners will not be liable for 1997-98 provisional tax where:

- the 1996-97 taxable income of a single pensioner is less than $21,377;
- the combined taxable income for 1996-97 is less than $33,368 for a pensioner couple receiving the partnered-rate pension; and
- the combined taxable income for 1996-97 is less than $41,116 for a pensioner couple receiving the separated-rate pension (where the pensioners live apart as a result of illness or infirmity).

Pensioners who qualify for a full or partial pensioner rebate in 1996-97 will therefore be exempt from 1997-98 provisional tax.

For the purpose of determining whether a pensioner is eligible for a provisional tax exemption, bonuses received from friendly societies or insurance companies are excluded from taxable income.

Tax deductibility for Constitutional Convention election expenses

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
–	0.4	–	–

Explanation

The Government has decided to allow a limited tax deduction of up to $1,000 for expenses incurred in 1997-98 as a result of contesting election for delegates to the Constitutional Convention. Introducing tax deductibility for Constitutional Convention election expenses will allow candidates to offset some of the costs incurred while campaigning.

The Government estimates that there will be approximately 800 candidates seeking election to the Convention. On the basis of this estimate, the taxation revenue forgone will be up to $400,000 in 1998-99.

Deductibility of donations to the National Nurses Memorial Trust

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
*	*	*	*

* The nature of the measure is such that a reliable estimate cannot be provided.

Explanation

The Government has given in principle approval for donations of $2 or more to the National Nurses Memorial Trust to be tax deductible for a period of two years. After the Trust has satisfied the usual public fund requirements, the Government will announce the starting date for the two year period of deductibility.

Small Business Deregulation Task Force — Pay as you go proposal

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
–	–	–	–

Explanation

The Report of the Small Business Deregulation Task Force (SBDTF) recommended the introduction of an optional Pay As You Go (PAYG) system to allow small businesses and other provisional taxpayers the option of paying their tax in instalments from current business receipts from their 1998-99 income year. The SBDTF recommended that the instalments be calculated by applying a taxpayer’s average tax rate from a previous year to the taxpayer’s receipts for each quarter (ie a formula based approach).

The Government undertook to examine the SBDTF’s recommendation as part of the 1997-98 Budget deliberations, but noted that an additional payment system would add complexity to the tax system and that the timing of the revenue collections had to be considered. The Australian Taxation Office’s subsequent review of the proposal has confirmed that the SBDTF’s formula is quite complex when applied to partnership or trust income, dividends or foreign source income, and to situations in which a taxpayer receives income from salary and wages or other sources in addition to business income. The formula could significantly increase taxpayer compliance costs.

The Government will continue to examine options for further improving tax payment arrangements beyond the withholding tax arrangements announced in the Budget.

Conversion of the Commonwealth Rebate for Apprentice Full-Time Training (CRAFT) tax expenditure to outlays

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
–	35	45	55

Note: These numbers represent notional gains to revenue arising directly from conversion of this tax expenditure to outlays. They include the gain to revenue from removing the tax exemption of payments and from the additional nominal amount of payments (designed to make recipients no worse off).

Explanation

Commonwealth financial assistance to employers of apprentices was enhanced in 1977 via taxation exemption under section 23(jc) of the *Income Tax Assessment Act 1936* for payments under the Commonwealth Rebate for Apprentice Full-Time Training (CRAFT) scheme. Through CRAFT the Commonwealth contributes to meeting the cost of apprentices. Current payments made under CRAFT which attract the taxation exemption include, for the incentive regime introduced in December 1996, commencement, recommencement, progression and additionality payments and, for previous incentive regimes, commencement, recommencement and completion payments.

The Government has decided to remove the tax exemption of the existing CRAFT Apprentice Training Incentive. To support the Government initiative to increase higher level structured training, the approximate value of the tax expenditure will be returned as a completion payment to 'for profit' employers of Australian Qualifications Framework Level 3 (AQF3) new apprentices. The conversion of the CRAFT tax expenditure to outlays in the 1997-98 Budget and forward estimates removes an anomaly between the taxation treatment of apprenticeship and traineeship incentives and forms part of a refined incentives package which reinstates incentives for large employers. This measure is shown correspondingly as an increase in outlays.

After account is taken of the other elements of the entry level training (ELT) package, and abstracting from timing effects (which reflect the one year lag in tax receipts), the conversion is broadly budget neutral over the medium term.

Conversion to a purely outlays programme will simplify the current ELT arrangements and improve the overall transparency of benefits to the public while clarifying the costs to Government.

The changes will take effect from 1 January 1998, subject to the passage of the necessary tax legislation. While the conversion of the CRAFT tax expenditure to outlays will mean that incentive payments for all apprentices who commence or recommence after 1 January 1998 will be taxable, incentive payments for those apprentices who commenced prior to 1 January 1998 will retain their tax exempt status.

The proposed changes are in line with other reforms to the ELT system and form part of the total cost to the budget of the wider reforms. The changes also address a number of issues raised in the Government's *Review of the Impact of Restrictions on Entry Level Training Incentives* undertaken by the Allen Group and are consistent with the principles

relating to the conversion of tax expenditures outlined in the 1996 *National Commission of Audit Report*. Details on the outlays aspects of this conversion are presented in the measure titled 'Changes to entry level training employer incentives' described in Part I of this Budget Paper under the Employment, Education, Training and Youth Affairs portfolio.

Trust losses

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
5	15	20	20

Note: The estimates represent the impact on revenue against the forward estimates which are based on the original estimates of the trust loss measures provided in the 1995-96 Budget.

Explanation

On 10 February 1997, the Government released exposure draft legislation on trust loss measures. After receiving comments and submissions, the Government has decided to modify the draft legislation to restrict its application. The income injection test will not apply where entities and individuals within a family group inject income into a family trust with losses. This modification will have effect from 7.30 pm AEST, 9 May 1995 (the time of the 1995-96 Budget when the trust loss measures were first announced). For a family trust to access this concession, a family trust election must be made under the proposed legislation. The existing transitional rules in the exposure draft, which will allow family trust and interposed entity elections to be effective from times before they are actually made, will continue to have effect.

A modification will also be made to the definition of the 'family of an individual', with effect from 7.30 pm AEST, 13 May 1997, to ensure that the definition is appropriate in the light of the modifications made to the income injection test. The details of this modification are set out below.

The application of the definition of 'benefit' for the purposes of the test will be clarified, as set out below. This change will have effect from 7.30 pm AEST, 9 May 1995.

The income injection test will continue to apply, as set out in the exposure draft legislation, from 7.30 pm AEST, 9 May 1995, to a trust that is not a family trust, and also to a family trust where the relevant outsider, or associate of the outsider, is not a member of the family group. The trust loss measures that address the transfer of ownership or control of loss trusts will continue to apply to all trusts from 7.30 pm AEST, 9 May 1995.

The Government is currently examining other matters raised in representations on the exposure draft legislation and will announce its decisions on those later.

More detail on the modifications to be made to the exposure draft legislation released on 10 February 1997 is set out below.

Modified Definition of Outsider

The definition of 'outsider to the trust' in subsection 270-10(4) of the draft legislation will be replaced by a definition along the following lines:

An outsider to the trust will be a person who is not:

(a) if the trust is a family trust:

— the individual specified in the trust's family trust election and a member of his or her family; or

— a company, partnership or trust (entity) that is a member of the family group of the individual specified in the trust's family trust election, provided the entity is such a member before the scheme referred to in paragraph 270-10(1)(b) of the draft legislation commenced.

(b) in the case of any trust: the trustee of the trust or a person with a fixed entitlement to a share of the income or capital of the trust.

However, if any person becomes a person covered by paragraph (b) as a result of the carrying out of the scheme referred to in paragraph 270-10(1)(b) of the draft legislation, that person will be an outsider to the trust.

Modified Definition of Family Member

The people who are the family of an individual (the test individual) (currently in section 272-95 of the draft legislation) will be replaced by the following:

(a) the test individual's spouse;

(b) a child, grandchild, parent, grandparent, brother, sister, nephew or niece of:

(i) the test individual; or

(ii) the test individual's spouse;

(c) the spouse of any individual covered by paragraph (b).

Modified Application of the Definition of Benefit

Paragraph 270-10(1)(c) of the draft legislation will be modified to make it clear that the connection between the derivation of scheme assessable income, or the provision of any of the benefits, and the availability of the deduction must be more than merely incidental.

Taxation of trusts

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
–	–	–	–

Explanation

Information gathered by the Australian Taxation Office (ATO) High Wealth Individuals Taskforce has identified the use of complex trust structures for tax avoidance or undue tax minimisation. The Government is concerned to ensure that the taxation provisions relating to trusts deal appropriately with the modern day usage of trusts and do not permit tax avoidance or undue tax minimisation. It will be necessary to review the taxation of trusts accordingly.

Before the review, the Treasury and the ATO will release a discussion paper, outlining relevant tax issues and broad policy options. Public submissions will be invited following the paper's release. The timing of the paper will enable the Government to consider this matter, in the light of submissions received, in the context of the 1998-99 Budget. The Government reserves the right to take earlier legislative action to prevent tax minimisation or avoidance by the use of trusts.

Limited partnerships

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
–	–	–	–

Explanation

The Government has decided to review the current taxation treatment of limited partnerships to ensure that it remains appropriate and to address any unintended consequences arising from the 1992 decision to treat limited partnerships as public companies for tax purposes. An information paper on these issues will be released by the Australian Taxation Office and the Treasury later this year. The Government reserves the right to take earlier legislative action to prevent tax minimisation or avoidance through the use of limited partnerships.

Taxation of distributions disguised as loans from private companies

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
2	50	30	30

Explanation

Currently, private companies are, in certain circumstances, able to make distributions of realised or unrealised profits that are effectively tax free by structuring them as loans to shareholders rather than as taxable distributions.

The Government has therefore decided to amend the *Income Tax Assessment Act 1936* (ITAA) to ensure that tax is payable on distributions from private companies which take the form of loans to shareholders which are not on commercial terms (as described below as 'excluded loans'). Commercial loans with appropriate interest payments and repayments will not be affected by the provisions. In addition, the changes will not affect loans that are fully repaid within the same income year in which the loan was first paid or credited (subject to certain anti-avoidance provisions).

This measure is likely to impact on tax minimisation practices used by some high wealth individuals.

Section 108 of the ITAA will be strengthened so that advances, loans, or the crediting of amounts by private companies to shareholders (and their associates) will be deemed to be an assessable dividend (to the extent that there are realised or unrealised profits in the company) unless they come within a defined class of excluded loans.

Loans deemed to be assessable dividends will be unfrankable but will result in a debit to the company's franking account as if they had been franked, in order to prevent dividend streaming opportunities.

The amended law will also apply to advances, loans, or credits made to unrelated third parties where there is an agreement that the third party will advance, loan, or credit a similar amount to a shareholder, or an associate of a shareholder, of the original lender.

The legislation will specifically cover the forgiveness, by private companies, of debts owed to them by shareholders and their associates. The forgiveness of a debt owed by a shareholder or an associate will be deemed to be a dividend paid to the debtor within the terms of section 108, provided the loan was not itself previously taxed under that section. The forgiveness provisions will apply to both legally enforceable debt forgiveness and any activity which in economic terms amounts to a forgiveness of debt. The amount forgiven will be assessable to the debtor in the year in which the debt is forgiven regardless of the year in which the loan was initially provided. The dividend arising on the forgiveness of a debt by a private company will not be a frankable dividend but will result in a debit to the company's franking account as if it had been franked.

In order to qualify as an *excluded loan* the loan must satisfy certain conditions, including:

- a requirement that the effective rate of interest per annum payable under the loan is equal to or greater than a benchmark interest rate (this will be the same benchmark rate as applies for fringe benefits tax purposes); and
- the actual term of the loan is not greater than a specified maximum term for the loan; and
- the amount actually repaid in respect of the loan in a year of income is equal to or greater than either the specified minimum yearly repayment, or (in the year of income in which the loan is discharged) the amount of the loan plus any outstanding interest payable in respect of the loan.

The legislative rules defining an excluded loan will be supported by detailed regulations.

An excluded loan will also include any loan which is fully repaid in the same income year in which the loan amount was first paid or credited. Anti-avoidance provisions will be included to ensure this operates appropriately.

A repayment will not be treated as a repayment for the purposes of these provisions if the repayment has been funded by a loan from an associate of the taxpayer making the repayment. The definition of 'associate' will have broadly the same meaning as in subsection 26AAB of the ITAA.

A failure by any party to the loan to comply with any of these terms will result in the full amount of the loan being deemed to be a dividend in the year in which the term or terms are not complied with.

With the exception of the debt forgiveness measure, the measures will apply to loans entered into after the date of introduction of the legislation. A loan is entered into when an amount is actually paid or credited to the shareholder. A new loan will be deemed to have been entered into if the terms of an existing loan are altered (other than through an adjustment to the interest rate that is allowed for by the loan agreement), the period of the loan is extended or the loan is rolled over into another loan. The debt forgiveness measure will apply to any debt forgiven on or after the date of introduction of the legislation.

Measures to prevent dividend streaming

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
–	†‡	†‡	†‡

† The measure will protect the revenue base used for the forward estimates, by removing opportunities for significant future expansion of tax minimisation practices. In the absence of the measure, to the extent that the revenue base would not be protected, there would be a significant revenue loss compared to the forward estimates.

‡ The measure will result in unquantifiable revenue gains to the extent of existing tax minimisation.

Explanation

The Government has decided to introduce measures to address the unintended usage of franking credits through dividend streaming arrangements. Dividend streaming arrangements involve a company disproportionately directing franked dividends to shareholders who can benefit most from imputation credits.

The underlying principles of the imputation system as introduced in 1987, and as reflected in its affordability, include: first, that tax paid at the company level is in broad terms imputed to shareholders proportionately to their shareholdings; and second, that the benefits of imputation would be available only to the true economic owners of shares, and only to the extent that those taxpayers were able to use the franking credits themselves.

Dividend streaming undermines the first principle by attributing tax paid on behalf of all shareholders to only some of them by allowing the streaming of franking credits to maximise their value to certain shareholders over others. To allow such practices to continue would bring into question the affordability of the imputation system as originally designed.

Amendments to address schemes which undermine the second underlying principle are outlined in 'Measures to prevent trading in franking credits'.

The *Income Tax Assessment Act 1936* (ITAA) already contains specific provisions designed to maintain the original objective of the imputation system by preventing dividend streaming. It is clear, however, that these provisions are not wholly effective. The Government intends to introduce amendments to the ITAA to strengthen the existing streaming provisions by:

- **providing an anti-avoidance rule targeting dividend streaming**, which would apply to arrangements whereby a company streams dividends so as to provide franking credits to shareholders who benefit most in preference to others;

  — this rule will apply to dividends and distributions paid on or after 7.30 pm AEST, 13 May 1997, including those relating to arrangements entered into before that time;

- ensuring that **section 45Z** operates to treat dividends distributed to beneficial owners of shares which are equivalent to interest on a loan in the same way that dividends to

direct owners are treated with respect to the operation of the debt dividend provisions (section 46D of the ITAA);

- — this amendment will apply to capital subscribed to trusts and finance raised on or after 7.30 pm AEST, 13 May 1997, and to the renewal, extension or rollover after that time of existing interests in trusts after the expiry of their present term;

- **amending the definition of 'class of share'** in the ITAA by providing that a class of shares includes all shares having substantially the same rights;
  - — a similar amendment would also apply in relation to interests held in a corporate limited partnership so that they are deemed to be one share class;
  - — these amendments will apply to all shares and partnership interests, whether issued before or after 7.30 pm AEST, 13 May 1997, and will apply in relation to franking years commencing after that time.

The general anti-avoidance rule referred to under 'Measures to prevent trading in franking credits' (and detailed in the separate Press Release) will also have application to dividend streaming arrangements.

- As for the anti-avoidance rule targeting dividend streaming, this general anti-avoidance rule will apply to dividends and distributions paid on or after 7.30 pm AEST, 13 May 1997, including those relating to arrangements entered into before that time.

In the case of dividend streaming arrangements attracting the operation of either of the anti-avoidance provisions, the Commissioner will have the discretion either to deny franking credits on the streamed dividends or distributions paid under such an arrangement, or post a franking debit to the company streaming the dividends.

Details of the amendments are set out in a separate Treasurer's Press Release.

Measures to prevent trading in franking credits

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
–	†‡	†‡	†‡

† The measure will protect the revenue base used for the forward estimates, by removing opportunities for significant future expansion of tax minimisation practices. In the absence of the measure, to the extent that the revenue base would not be protected, there would be a significant revenue loss compared to the forward estimates.
‡ The measure will result in unquantifiable revenue gains to the extent of existing tax minimisation.

Explanation

The Government has decided to introduce measures to address trading in franking credits and misuse of the intercorporate dividend rebate provided under section 46 of the *Income Tax Assessment Act 1936* (ITAA).

The underlying principles of the imputation system as introduced in 1987, and as reflected in its affordability, include: first, that tax paid at the company level is in broad terms imputed to shareholders proportionately to their shareholdings; and second, that the benefits of imputation would be available only to the true economic owners of shares, and only to the extent that those taxpayers were able to use the franking credits themselves.

The amendments to address trading in franking credits and misuse of the intercorporate dividend rebate are designed to restore the second underlying principle of the imputation system and address schemes in which shareholders are able to fully access franking credits without bearing the economic risk of share ownership. In such arrangements, the taxpayer to whom the benefits are transferred generally claims a tax deduction for amounts paid to other taxpayers in relation to the transfer of benefits. This is in addition to the franking rebate received by the shareholder under the existing dividend imputation arrangements. Similar arrangements can be entered into to gain advantages from the intercorporate dividend rebate.

Arrangements that allow franking credits to be transferred, by separating legal ownership from the economic risks of share ownership, undermine this principle by allowing the full value of franking credits to be accessed without bearing the economic risk. To allow such arrangements to continue would bring into question the affordability of the imputation system as originally designed.

Amendments to address schemes which undermine the first underlying principle are outlined in 'Measures to prevent dividend streaming'.

The Government intends to introduce amendments to the ITAA to:

- **limit the source of franking credits available for trading** by denying franking credits to, and cancelling the existing franking surpluses of, companies that effectively are wholly owned by non-resident shareholders or tax exempt shareholders (including the Commonwealth and State and Territory governments);
  - — arrangements will be put in place to ensure that non-resident shareholders in such companies receiving franked dividends will continue to be exempt from dividend withholding tax;
- **prevent short-term franking credit trading** by denying franking credits and the intercorporate dividend rebate on dividends paid to holders of shares where the taxpayer acquires shares or interests in shares and then disposes of them (or equivalent shares or interests) within 45 days (or 90 days in the case of preference shares) and during this period dividends are payable or the taxpayer enters into a risk-reduction arrangement within 45 (or 90) days of the time of acquisition of the shares or interests;
- **prevent longer-term transfer arrangements** where franking credits and the intercorporate dividend rebate are received by taxpayers who are not carrying the economic risks and benefits of share ownership by denying franking credits and the intercorporate dividend rebate on dividends where the taxpayer (or an associate) is

under an obligation to make related payments with respect to positions in substantially similar or related property; and

- **provide for a general anti-avoidance rule** against franking credit trading and streaming, to apply to arrangements where one of the purposes (other than an incidental purpose) is to obtain a tax advantage in relation to franking credits.

The intent of these measures is broadly consistent with elements of measures that operate in a number of other countries (eg New Zealand and the United States) relating to the tax treatment of dividend payments.

The general anti-avoidance rule will apply to deny franking credits on dividends and other distributions paid on or after 7.30 pm AEST, 13 May 1997, including those relating to arrangements entered into before the date of announcement.

The measure to prevent companies effectively wholly owned by tax exempt and non-resident shareholders from holding and accruing franking credits will apply from 7.30 pm AEST, 13 May 1997, subject to transitional provisions. Those provisions include transitional arrangements which may apply to Commonwealth-owned companies at the time of sale. The remaining rules will apply to dividends and other distributions paid on shares and interests acquired, and arrangements entered into, on or after that time.

Details of the measure are set out in a separate Treasurer's Press Release.

National Crime Authority investigations

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
–	40	40	–

Explanation

The National Crime Authority (NCA) has received funding to extend its investigations of complex money laundering and tax evasion schemes. (A description of the outlays funding for the NCA is outlined in the measure titled 'Additional funding to target serious and large scale fraud and related crime against the Commonwealth' in Part I of this Budget Paper.) This is expected to lead to increased income tax revenue of $30 million in both 1998-99 and 1999-2000 from successfully combating serious cases of tax evasion. It is also anticipated that these investigations will result in increases in recoveries of the proceeds of crime estimated at $10 million in both 1998-99 and 1999-2000.

Introduction of the Infrastructure Borrowings tax rebate

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
-37.5	-75	-75	-75

Explanation

The Government has decided to introduce a tax rebate to continue Commonwealth support of private sector provision of public infrastructure. This rebate replaces the Infrastructure Borrowings (IBs) tax concession for which, as announced on 14 February 1997, certificates cannot be issued from that time (see the measure described under ‘Preventing future access to the Infrastructure Borrowings tax concession’).

The programme will be open for applications for assistance in respect of: private land transport infrastructure projects; project proponents which had applied for an IBs certificate by 12.00 pm (by legal time in the ACT), 14 February 1997; and extensions of projects that had been certified to use IBs.

This measure will permit resident infrastructure financiers to apply for a tax rebate on interest received from infrastructure providers in return for the infrastructure providers forgoing the tax deductibility on that interest. This will benefit infrastructure providers because financiers will be able to offer lower rates of interest or other benefits.

The rate of the rebate will be set at the lower of the financier’s current year marginal tax rate or 36 per cent, the current company tax rate, and will be available in respect of the (grossed up) amount of interest on borrowings that is returned as income by the financier. The rebate will be available for up to five years from the time of first borrowing for a qualifying project. The rebate will not be tradeable and will be applied only against tax payable in respect of the income year in which the financier treats the interest as assessable income. Where a loan is fully refinanced or fully transferred, the rebate amount will be available to the new financier for the unused period of the rebate if the conditions of approval continue to be satisfied. However, if the loan interest is assigned to another entity, neither the assignee nor the assignor will be eligible for the rebate from the time of the assignment.

The cost to the budget of the rebate will be capped at $75 million per annum (including running costs). Once this cap has been reached, further rebates will not be approved. There will be no avenue of appeal against Government decisions on a project’s eligibility.

The Commissioner of Taxation will call for applications for the rebate on a twice-yearly basis. Applications will be assessed against the following criteria in two stages.

In stage 1, projects will be examined to determine whether they: fall into an eligible category for assistance; involve genuine private provision of new public infrastructure; and have been subject to benefit-cost analysis. The benefit-cost analysis (together with documentation establishing the commercial feasibility of the project) should accompany the application for assistance.

- The eligible categories of new public infrastructure are road and rail projects and their related facilities and, as a transitional measure, projects that had applications for IBs pending at the time of the 14 February 1997 announcement and extensions of projects that had previously been certified to use IBs.

- Only genuine private sector proponents which provide new public infrastructure will be able to access the tax rebate. Private sector proponents will only be able to access the rebate while they pass the tests contained in section 51AD and Division 16D of the *Income Tax Assessment Act 1936*.

In stage 2, only projects which have fully satisfied the requirements of stage 1 will be assessed. The basis for assessment will be:

- The viability of the project from a commercial feasibility viewpoint. Projects must be commercially viable. A lack of material to support claims of commercial feasibility will be interpreted as indicating no commercial feasibility.

- The extent to which the project would not proceed without the rebate. Commercially feasible projects which are unlikely to proceed without the rebate will be preferred to projects which are likely to proceed regardless of whether they are granted the rebate. A lack of material to support claims that the project would not proceed without the rebate will be interpreted as indicating that the project would proceed regardless.

- The extent to which the tax benefits arising from the tax rebate flow to the infrastructure project proponent. Higher levels of tax benefits flowing to the infrastructure project proponent will be preferred to projects where lower levels of tax benefits flow to the project proponent. A lack of material to support claims of tax benefits flowing to the project proponent will be interpreted as indicating low levels of flow to the project proponent.

- The estimated present value of the cost to the revenue of the tax rebate being granted to the project relative to the present value of total project expenditure. Projects with lower ratios of present value cost to the revenue to present value of the total expenditure will be preferred to projects with higher ratios. A lack of material to support claimed cost to the revenue ratios will be interpreted as supporting the highest cost to revenue ratio consistent with known features of the project.

- The nature and extent of:

  — any national economic and social benefits from the project that are unlikely to be captured by the project proponent; and

  — any wider economic and social costs that are unlikely to be borne by the project proponent

  because of market failures, externalities or spillover effects. Projects with higher balances of such benefits over such costs relative to total project expenditure will be preferred to projects with lower balances relative to total project expenditure.

- The consistency of the proposed investment with any relevant Commonwealth or State policy or planning objectives. Projects meeting relevant Commonwealth or State policy or planning objectives will be preferred.

- The degree of open and public consultation with those affected by the project. Greater levels of consultation will be preferred.

Projects will be assessed against all criteria, and so a project need not be preferred on every criterion to be assessed favourably.

The programme will have effect from 1997-98, with approval for rebates first being granted in respect of applications received by 31 December 1997. The Commissioner of Taxation will shortly be calling for applications.

Tax exempt entities which become taxable — Notional depreciation

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
–	–	–	–

Explanation

The Government has decided to amend the taxation law to ensure that tax exempt entities which became subject to taxation before 3 July 1995 obtain tax deductions for depreciation based on the notional written down values of their depreciable assets.

The Australian Taxation Office has consistently administered the law on the basis that exempt entities which become subject to taxation must claim deductions for depreciation as if the depreciable item were used to produce assessable income from the time of its acquisition.

The *Income Tax Assessment Act 1936* was amended in December 1996 to provide for a number of transitional issues of exempt entities which became taxable from 3 July 1995. One of those amendments clarified the long-held interpretation of the depreciation provisions.

The law will be amended to provide certainty with respect to those entities which became subject to taxation before 3 July 1995.

Hire purchase arrangements — Balancing adjustment on disposal

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
5	30	20	25

Explanation

The Government has decided to amend the taxation law to rectify an anomaly in the capital allowance provisions of the income tax law in relation to property acquired under hire purchase or limited-recourse finance.

Under the existing provisions, it is possible for a taxpayer to obtain deductions greater than total amounts expended in relation to the cost of the property that is financed under hire purchase or through limited-recourse borrowing. This can occur when outstanding debts on the property are not paid, and the creditor may only recover the specific asset.

To remove this anomaly, the income tax law will be amended to treat unpaid amounts of the cost of property under hire purchase or limited-recourse finance arrangements as part of the consideration on disposal of the property. This change in the law will apply to disposals of property after 7.30 pm AEST, 13 May 1997, except for disposals that were made under a contract entered into before that time.

Example

Existing Law

Plant purchased for $10,000 under a hire purchase agreement may be repossessed for non-payment after two years. If at that time the plant has been depreciated for tax purposes by $7,000 but the taxpayer has paid only $4,000 of the hire purchase cost, the taxpayer would have obtained a tax gain which exceeds costs by $3,000. A further deduction would be available to the taxpayer equal to the difference between the depreciated value of $3,000 and the taxpayer's disposal price — in this case nil because the plant was repossessed. For a total outlay of $4,000, the taxpayer's deductions would be $10,000.

Amended Law

The $6,000 of the unpaid cost under the hire purchase arrangement — adjusted if necessary for any further amount the taxpayer was required to pay — would be treated as consideration on disposal, thereby creating a balancing charge of $3,000 ($6,000 less the depreciated value) to offset the $7,000 depreciation already deducted. The taxpayer's net tax deductions then would be $4,000 — equal to net outlays.

Sydney Olympic Games — Taxation issues

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
..	..	..	..

.. Not zero, but rounded to zero.

Explanation

The Government has decided to exempt the International Olympic Committee from tax on its Australian sourced income.

Demutualisations of non-insurance organisations — Development of a generic tax framework

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
*	*	*	*

* The nature of the measure is such that a reliable estimate cannot be provided.

Explanation

The Government has decided to develop — with public consultation — a generic tax framework that can be applied to all future demutualisations of non-insurance organisations.

The application of the existing tax law to demutualisations of non-insurance organisations can be uncertain and can give rise to anomalies (including the possibility of taxpayers being subject to some element of double taxation). To address these problems the Government intends to develop a generic tax framework for determining the tax consequences of transactions associated with the demutualisation of non-insurance organisations.

Amongst other things, the generic tax framework will specify:

- what constitutes a demutualisation for the purposes of this measure;

- the tax consequences of members surrendering their membership interests in the mutual organisation;

- the basis for determining the cost base of shares issued to (former) members as a result of demutualisation; and

- the tax treatment afforded to (former) members who receive a cash payment to surrender their membership interests rather than proceeds from the sale of their demutualisation shares.

Given the complexity of these issues and the diverse range of mutual non-insurance organisations to which a generic framework might apply, the Government intends to consult widely on the development of this measure. To facilitate the consultation process, the Australian Taxation Office and the Treasury will shortly be releasing an issues paper inviting comment on the broad policy principles to apply to the generic framework.

Taxation of foreign source income

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
–	150	150	150

Explanation

After considering submissions in response to the Treasurer's Information Paper (IP) released on 24 December 1996, the Government has now settled the details of the proposed changes to the system for taxing foreign source income.

A new short list of 7 truly comparable tax countries (ie a controlled foreign company (CFC) list) will be established for the purposes of the CFC and transferor trust measures. The list will comprise Canada, France, Germany, Japan, New Zealand, the United Kingdom and the United States. Profits derived by CFCs and transferor trusts resident in these countries will continue to be largely exempt from accruals taxation under the CFC and transferor trust measures (certain tax concessions in these countries will be designated in the Income Tax Regulations). The new list will generally take effect for statutory accounting periods of CFCs and years of income of transferor trusts commencing on or after 1 July 1997.

In response to concerns raised in submissions, the definition of tainted services income in the CFC measures will be amended to exclude amounts of services income derived from an associated CFC resident in the same country provided that amount is subject to the normal rate of company tax in that country and does not reduce the attributable income of the associated CFC. The definition of tainted rental income will be amended in similar terms.

As proposed in the IP, the existing list of countries in Schedule 10 of the Income Tax Regulations will be retained, updated and expanded for the purposes of the exemptions provided in sections 23AJ and 23AH and related sections of the *Income Tax Assessment Act 1936* (ITAA) dealing with the repatriation of foreign profits. This list (ie the repatriation list) will apply from 1 July 1997. Also effective from 1 July 1997, the Czech Republic and Vietnam will be added to the repatriation list. Amendments to the law will be made to ensure that Hong Kong continues to be treated as an unlisted jurisdiction following the establishment of the Hong Kong Special Administrative Region of the People's Republic of China on 1 July 1997. Other proposals in the IP in relation to the repatriation list will be adopted as proposed.

Bank branches operating in countries only on the repatriation list will be provided with an exclusion from tainted income broadly consistent with the exclusion for bank CFCs in

repatriation list countries. In view of the continued globalisation of financial markets, the treatment of Australian financial institutions will be kept under review.

The Government will also take the following measures to reduce the compliance costs of the CFC measures:

- the active income test for CFCs in CFC list countries will be relaxed to ensure that it operates in the same way as the test for unlisted country CFCs;
- an active income test concession will be provided for branches of Australian companies operating in repatriation list countries, such that, consistent with CFCs in repatriation list countries, they can derive up to 5 per cent of gross turnover as tainted income and still obtain full exemption under section 23AH;
- transactions involving CFCs resident in the same CFC list country will be excluded from the transfer pricing rules in the CFC measures;
- the requirement to apply thin capitalisation rules and debt creation rules in calculating the attributable income of a CFC will be removed;
- an election to vary a CFC's accounting period for accruals taxation purposes will be allowed to take effect immediately if made during the first period that a company becomes a CFC;
- a taxpayer will be allowed to make elections on behalf of a CFC if the company is wholly owned by the taxpayer either directly or indirectly through other entities; and
- an election by a CFC for capital gains tax rollover relief will be able to be made at a later time (ie when an Australian controller lodges a tax return that is affected by the election).

The Government has also decided to proceed with the proposals in relation to section 457 of the ITAA, tax sparing and the Foreign Investment Fund measures as outlined in the IP.

The Government plans to release draft legislation on the changes prior to 1 July 1997.

Passive income of life and general insurance companies

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
–	10	10	10

Explanation

The Government has decided to correct a deficiency in the current formulae used to determine the passive income of controlled foreign companies (CFCs) of Australian life and general insurance companies that is subject to accruals taxation (taxation in Australia

on a current basis with a foreign tax credit) to ensure that the original policy intent is achieved.

When the CFC regime was introduced, a concession was made in relation to the passive income derived by CFCs that carried on the business of life or general insurance. The concession was designed to exempt from accruals taxation passive income (eg interest, royalties, dividends) derived from assets employed to meet the calculated liabilities of policies issued by the CFC to non-resident non-associated policyholders. However, the formulae used to calculate the passive income allow income derived from assets which are in excess of the assets required to meet the liabilities of non-resident non-associated policy holders to be exempted from the CFC provisions. This deficiency has the effect of sheltering passive income earned from that excess capital from Australian tax.

The Government intends to amend the *Income Tax Assessment Act 1936* to ensure that the deficiency that exists in the current formulae, contained in section 446, is corrected.

This measure is designed to achieve the original policy intention of the law and to prevent further tax avoidance. The amendment to the legislation will apply to passive income derived by insurance CFCs after Budget night (after 7.30 pm AEST, 13 May 1997).

SUPERANNUATION AND SAVINGS

Taxation rebate for savings

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
–	-350	-1370	-2040

Explanation

Part of the funds set aside in the outlays forward estimates for the delivery of the 'LAW' tax cuts as matching Government superannuation contributions (as described in the 1995-96 Budget) will be applied to introduce a broadly based savings rebate through the tax system. The rebate will provide assistance for individual taxpayers who save or invest, and encouragement for potential savers or investors. Income from a broad range of savings and investments will be eligible for the rebate. This will enable individuals to save or invest in the form most suited to their needs and will avoid introducing further distortions into the financial system.

A taxation rebate will be available for resident individual taxpayers with respect to their undeducted member superannuation contributions and net personal income from other savings and investments up to an annual cap of $3,000. In 1998-99, a transitional rebate rate of 7.5 per cent will apply providing an initial rebate of up to $225. From 1 July 1999, the rebate rate will increase to 15 per cent providing a maximum rebate of $450 per annum. The savings rebate will not be means tested. It will provide equitable assistance to private savings, that recognises the importance of superannuation savings,

but also provides assistance for individuals who save for other life cycle needs. The savings rebate will also benefit individuals who have retired and are living on the returns from their savings.

With respect to superannuation contributions, the savings rebate would apply to the amount of superannuation contributions made by employees or the self-employed from post-tax income. For personal superannuation contributions made by low to middle income earners, the first $1,000 of contributions would attract both the savings rebate and the existing 10 per cent rebate available to individuals earning up to $31,000.

The savings rebate will also apply to net personal income from savings and investment (ie unearned income less allowable deductions relating to that income). This would include such items as interest receipts, dividend income (grossed-up by imputation credits), net rental income, net capital gains, privately funded pensions and annuities (including Commonwealth and State Government employee pensions), assessable life insurance and friendly society bond bonuses, partnership income, trust income and attributed foreign income. The savings rebate will also apply to net business income received by an individual, such as income derived from operating as a sole trader or a partnership.

The savings rebate will be calculated by the Australian Taxation Office from information in the individual's tax return. Taxpayers will need to provide information in their tax returns on their undeducted member superannuation contributions. Taxpayers will be able to vary their provisional tax in anticipation of the new rebate.

Freezing the trustee tax rate for friendly societies

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
-6	-29	-4	2

Explanation

In the 1993-94 Budget, the former Government announced that the friendly society trustee tax rate would increase from 30 to 39 per cent over the following three years. In the 1995-96 Budget, the former Government froze the trustee tax rate at 33 per cent until 1996-97 as it was to undertake a review of the taxation treatment of the life insurance business of friendly societies and life insurance companies. That review was not completed prior to the election. The friendly society trustee tax rate is currently legislated to increase from 33 to 39 per cent from 1 July 1997.

The Government will proceed with the review of the taxation treatment of the life insurance business of friendly societies and life insurance companies. The review will also cover all other taxation aspects of friendly societies' business.

Undertaking the taxation review in the context of the Government's consideration of the broader policy issues flowing from the Financial System Inquiry will enable the

application of a consistent direction in the taxation and regulatory approaches for the financial market, and specifically for life insurance providers.

While the review is being undertaken, the trustee rate of tax for the life insurance business of friendly societies and other registered organisations will be retained at 33 per cent until 1998-99, and the rebate rate for taxable policyholders with such investments will be retained at 33 per cent until 1999-2000. This trustee tax rate will be increased to 39 per cent from 1999-2000, and the rebate rate increased to 39 per cent from 2000-01, unless other relevant amendments to the taxation treatment of friendly societies are made prior to that time.

The main objectives of the review will be to improve the efficiency of the taxation treatment of life insurance companies and friendly societies, improve the equity in the treatment of their investors and to ensure a more neutral taxation outcome for competing investment products. The review is also aimed at improving the certainty of the application of the taxation laws and to decrease compliance and administration costs.

The review will be undertaken by the Treasury and the Australian Taxation Office (ATO) and will involve ongoing consultation with the life insurance and friendly society industries. A joint Treasury/ATO Consultative Document is expected to be released in the near future for industry comment.

Broadening the definition of ‘complying’ pensions and annuities in the Superannuation Industry (Supervision) Regulations

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
–	*	*	*

* The nature of the measure is such that a reliable estimate cannot be provided.

Explanation

Superannuants who take at least half of their total superannuation benefits in the form of a ‘complying’ pension or annuity can access the higher pension Reasonable Benefit Limit (RBL), currently $869,440. ‘Complying’ pensions and annuities are defined in the Superannuation Industry (Supervision) Regulations (SIS Regulations).

The existing definition of ‘complying’ pensions and annuities will be amended. In addition to existing ‘complying’ products (ie non-commutable lifetime pensions and annuities) products purchased on or after 1 July 1998 which meet the following characteristics will also qualify as ‘complying’ pensions and annuities for pension RBL purposes:

- the term of the income stream contract must be fixed and must be for life expectancy (as set out in the Australian Life Tables prepared by the Australian Government Actuary) but can be a minimum of 15 years where life expectancy exceeds 15 years; and

- where the term of the income stream contract is for life expectancy (or a minimum of 15 years) the term must commence on or after Age or Service Pension age.

For these income streams, the other characteristics of 'complying' pensions and annuities for pension RBL purposes will remain largely as currently defined in the SIS Regulations.

Indexation of payments will be made optional for all 'complying' pension and annuity products.

These measures will provide for greater consistency between the social security provisions and the SIS Regulations governing 'complying' income streams for RBL purposes. It will offer superannuants a wider choice of 'complying' income stream products and promote greater competition in the provision of such products. In turn, this should place downward pressure on the cost to retirees of purchasing 'complying' income stream products.

The details of the legislation to give effect to these changes will be developed in close consultation with the superannuation industry and other interested parties.

This is consistent with the outlays measure titled 'Reform of the income and assets Test treatment of income streams by the Department of Social Security and the Department of Veterans' Affairs' described in Part I of this Budget Paper under the Social Security portfolio.

Choice of superannuation fund

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
–	–	–	–

Explanation

Legislation will be introduced, with effect from 1 July 1998, to provide employees with greater choice as to which fund receives compulsory employer superannuation contributions made on their behalf.

Employers will be required to offer new employees a choice of five (or more) complying superannuation funds or Retirement Savings Accounts (RSAs) to which such contributions could be paid. The five (or more) choices offered must include at least one RSA and at least one public offer fund. The employer must also include, subject to their existence, a relevant industry fund (or funds), an RSA provided by the institution receiving the employee's pay, and an in-house superannuation fund. Employers will be required to give employees 28 days in which to make their choice. Where the employee does not nominate a fund or RSA within the required time, contributions will be made to the fund or RSA nominated by the employer.

For existing employees, employers must provide a similar choice within two years of the date of effect of the legislation.

The employer will also need to provide a ‘key features statement’ prepared by each of the chosen superannuation funds or RSA providers. The employer must also supply any relevant application forms.

The employer will be bound by the employee’s decision, and will be liable to pay the Superannuation Guarantee Charge for non-compliance. Employers will not, however, incur a penalty in cases where an employee does not nominate a fund within 28 days, or where the employee’s choice is not able to be implemented. This will include circumstances where the fund nominated by the employee ceases to be a complying superannuation fund, or otherwise refuses or is unable to accept contributions.

Appropriate mechanisms will be developed to ensure that employers and employees can be certain that an election is correctly made, received by employers and acted upon. It will also be expected that employers will advise employees of all the consequences of their decision, such as the implications of an election to leave a defined benefit scheme.

Legislative amendments will also be made to override the specification of funds in Federal awards. However, for Constitutional reasons, the choice of fund legislation will not apply to employees working under State industrial awards. In this regard, the Commonwealth Government will ask the States to consider introducing complementary legislation to achieve choice of fund for individuals employed under State awards, where they have not already done so.

Furthermore, choice of fund provisions will not override provisions contained in workplace agreements as to do so would be inconsistent with the intention of the industrial relations legislative framework.

The choice of fund legislation will not apply to public sector arrangements to the extent that employer Superannuation Guarantee (SG) and award contributions are unfunded. This is because of the fiscal consequences associated with being required to fund the benefits of members transferring from partially or totally unfunded superannuation schemes.

The legislation will apply to defined benefit schemes. For these schemes, employers do not make contributions for any particular employee but contribute an amount recommended by the fund’s actuary as being necessary to fund the liability to provide benefits under the scheme as a whole. It is possible that employees who exercise their choice to leave a defined benefit fund may receive reduced contributions. For example, employees may only receive the SG minimum employer contributions, rather than contributions at a rate consistent with the defined benefit scheme they have left. In such circumstances, employees will need to be informed by their employers of the full consequences of their choice.

To help implement employee choice of fund, this Budget provides extra funding to the Australian Taxation Office to ensure that an education package is prepared and delivered and so that administrative systems can be designed to allow choice of fund to work

efficiently. The extra funding will also support both initial and ongoing inquiries and complaints handling.

In order to contain the costs which would be imposed on employers if employees frequently nominated a different superannuation fund or RSA, employers will not be required to act on an employee's changed nomination of fund within twelve months of acting on a previous nomination. At any time, employers would also only be obliged to contribute to one fund or RSA for any individual employee. Employers will be able to contribute to more than one fund or RSA for an employee, or accept a new choice more than once per year, if they wish to do so.

Opting out of the Superannuation Guarantee system

Financial Implications ($m)

1997-98	1998-99	1999-2000	2000-01
-8	-10.3	-11.3	-12.4

Note: The estimates represent the impact on revenue against the forward estimates which are based on the original estimates of the opting out measure provided in the 1996-97 Budget.

Explanation

In the 1996-97 Budget, the Government stated its intention to allow employees earning $450 to $900 per month from an employer the opportunity to receive wages or salary in lieu of Superannuation Guarantee (SG) contributions. The Government has now decided the mechanism for opting out of the SG system.

The proposal will apply from 1 July 1998 to 'eligible employees' receiving monthly salaries of $450 to $900. (In response to the Small Business Deregulation Task Force, the Government recently announced that the proposed $900 per month threshold will be replaced by a threshold of $1,800 over a period of two months for persons under the age of 18.)

Employees, by agreement with their employer, can opt out of SG arrangements on commencement of employment or once annually thereafter. Employees will be able to opt back into superannuation arrangements at any time.

Opting out will not override the effect of industrial awards. Employees will only be able to opt out of SG arrangements to the extent that an employer's SG liability exceeds any relevant award obligations. For example, if the employer had an obligation under an award to pay the equivalent of 3 per cent of a person's salary in the form of an employer superannuation contribution and the SG contribution rate was 7 per cent, then the employee could only opt out to the extent of 4 per cent of salary.

An employer will not be able to force employees or groups of employees to opt out. Rather, any decision to opt out must be initiated by the employee.

To help employees decide whether to opt out or not, this Budget provides extra funding to the Australian Taxation Office (ATO) to ensure that an education package is prepared and available to employers and employees.

The introduction of opting out has been delayed until 1 July 1998 to allow time for the ATO, superannuation funds and employers to prepare the necessary documentation and alter systems.

Improvements to superannuation preservation arrangements

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
–	–	-35	-105

Explanation

The former Government amended the preservation rules such that all superannuation contributions, other than a person’s own ‘undeducted contributions’ (that is, contributions for which tax deductions have not been received) would be preserved, without reducing a person’s access to existing unpreserved benefits. However, the date of effect of these new rules has been twice deferred because the arrangements are complex and pose significant administrative problems for superannuation funds.

The Government has decided to improve and simplify the preservation rules by requiring that, from 1 July 1999, all contributions made by or on behalf of members be preserved on entry to a superannuation fund. All earnings of the fund from that date will also be preserved. These arrangements will also provide that the greater of a member’s undeducted contributions and the member’s resignation/retrenchment benefits as at 1 July 1999, as well as the amount at 1 July 1999 of other unpreserved benefits which individuals can currently access at any time, will not be preserved. This amount will not be indexed.

This approach to determining non-preserved benefits will overcome administrative problems associated with the previously legislated amendments to the preservation requirements, which were to have taken effect from 1 July 1998. The Government will consult with the superannuation industry in implementing these measures.

Improving the preservation arrangements will assist in meeting Australia’s retirement income and national savings objectives. It will ensure that savings through superannuation are directed to their intended purpose, namely providing for retirement income. It is for this purpose that superannuation savings receive concessional tax treatment. Extending the preservation requirements to cover member superannuation contributions is also consistent with the provision of additional assistance to such contributions by way of the savings rebate.

Individuals will continue to be allowed to obtain early access to preserved benefits where the benefits are taken in the form of a non-commutable life pension or lifetime annuity on termination of gainful employment, subject to the terms of superannuation fund trust deeds.

The changes outlined above will also apply to superannuation savings held in Retirement Savings Accounts.

Increasing superannuation preservation age

Financial Implications ($m)

1997-98	1998-99	1999-2000	2000-01
–	–	–	–

Explanation

The Government has decided to proceed with a phased increase in the preservation age from 55 to 60 between the years 2015 and 2025. For someone born before 1 July 1960 the preservation age will remain at 55 years; for someone born after 30 June 1964 the preservation age will rise to 60.

This increase is consistent with the Government's pre-election commitment to maintain the timetable first announced by the former Government in 1992 (and reaffirmed in 1995) for increasing the preservation age.

Increasing the preservation age to 60 will reduce the gap between the preservation and Age Pension ages, and thus reduce opportunities for 'double dipping'.

Increasing the preservation age will also allow for the accumulation of a larger retirement benefit, and will therefore improve people's retirement incomes and reduce their dependency on the Age Pension.

Individuals will continue to be allowed to obtain early access to preserved benefits where the benefits are taken in the form of a non-commutable life pension or lifetime annuity on termination of gainful employment, subject to the terms of superannuation fund trust deeds.

Reforms to early release of superannuation benefits

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
-9.6	-10.2	-10.8	-11.4

Explanation

The Government will reform the current arrangements for early release of superannuation benefits, with effect from 1 July 1997. These changes will improve the administration of the system by the Insurance and Superannuation Commission and fund trustees. These measures will also address some abuses of the current arrangements.

The changes are as follows:

- Superannuation funds will be able to release benefits to a person who claims to have left Australia permanently only after that person has reached the preservation age. This is broadly consistent with overseas practice.

- The $500 preservation threshold will be abolished. This threshold is now less relevant given the introduction of 'member protection rules' (which prevent benefits of less than $1,000 from being reduced by administrative fees and charges). Small amounts can now generally be transferred or diverted to eligible rollover funds.

- The current ad hoc assessment of claims for release of benefits on grounds of severe financial hardship will be replaced with an objective test of hardship to be administered by fund trustees based on evidence that the member has received specified social security payments for a continuous period of twelve months (or a cumulative period of nine months for people aged 55 or over). This measure will result in less 'red tape' for applicants and be more equitable because the release of benefits will be targeted at those who meet objective tests of financial need under broad social policy parameters.

- Defined criteria to clarify the circumstances covered by the condition for release of benefits on compassionate grounds will be introduced. This will provide a more objective test for the release of benefits on compassionate grounds.

Release of benefits to members who meet these tests will still be subject to the governing rules of their fund. The current arrangements for allowing early release of benefits on the grounds of permanent incapacity remain unchanged.

The changes outlined above will also apply to superannuation savings held in Retirement Savings Accounts.

The Government will consult with the superannuation industry and other interested parties in implementing these new measures.

CAPITAL GAINS TAX

Capital gains tax cost base provisions

Financial Implications ($m)

1997-98	1998-99	1999-2000	2000-01
5	80	120	125

Explanation

The Government has decided to amend the *Income Tax Assessment Act 1936* (ITAA) to ensure that, where the established cost base reduction rules do not apply:

- expenditure must be included in the cost base of an asset only to the extent that net revenue deductions are not allowable as a result of the expenditure; and

- the indexed cost base of an asset must be calculated by reducing the indexed expenditure on the asset by any net revenue deductions allowable as a result of the expenditure.

This will apply to the disposal of assets acquired after 7.30 pm AEST, 13 May 1997. It will have no implications for assets acquired prior to 7.30 pm AEST, 13 May 1997. Expenditure undertaken on assets acquired after 7.30 pm AEST, 13 May 1997 will continue to be fully deductible but will no longer be able to benefit from the cost base adjustment.

In principle an item of expenditure should either be deductible for income tax purposes, or included in the capital gains tax (CGT) cost base of an underlying asset, but not both. The CGT provisions reduce costs and expenditures that form part of the cost base to the extent that they are allowable as deductions. Section 82 of the ITAA also specifically attempts to prevent double deductions.

However, anomalies in the current tax treatment have given rise to double deductions in respect of certain capital expenditure items. A taxpayer can effectively claim the cost of the capital expenditure twice — first from income tax under capital allowance provisions, and second from inclusion of expenditure in the cost base of the underlying asset resulting in a reduction in CGT gains, or an increase in CGT losses, when the asset is sold.

Examples where this problem can arise include in respect of expenditure on: extending telephone lines; connecting mains electricity; traveller accommodation; and buildings and structural improvements covered by Division 10D of the ITAA.

To limit the increase in compliance costs arising from this measure, a single calculation will need to be undertaken at the time of disposal of an affected underlying asset. This concession will allow taxpayers to calculate the adjusted indexed cost base of an asset by reducing the indexed expenditure on the asset by the total of any net revenue deductions allowable.

Interaction of controlled foreign company measures and capital gains tax provisions

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
†	†	†	†

† The measure will protect the revenue base used for the forward estimates, by removing opportunities for significant future expansion of tax minimisation practices. In the absence of the measure, to the extent that the revenue base would not be protected, there would be a significant revenue loss compared to the forward estimates.

Explanation

The Government intends to correct several anomalies that have been identified concerning the interaction of the controlled foreign company (CFC) measures and the capital gains tax (CGT) provisions. Three of the anomalies could, in combination, prevent the intended taxation in Australia of capital gains on the deemed disposal of tainted assets (assets held to derive tainted income such as interest and dividends) of a CFC. (A deemed disposal can occur, for example, when a CFC, which holds an asset which has been subject to rollover relief, ceases to be a member of a group.) A further anomaly which will be corrected is that shareholders of a CFC that holds a tainted asset

and has taken advantage of the rollover provisions, may reduce their Australian tax liability by diluting their interest in the CFC between the time the rollover relief is obtained and when an asset disposal takes place.

Capital gains derived or deemed to be derived by a CFC on tainted assets are intended to be taxed in Australia (with a credit for foreign taxes paid) unless the CFC satisfies an active income test or the gains have been comparably taxed in another jurisdiction. Unless these anomalies are corrected, the interaction of the CFC measures and the CGT provisions will not operate as intended and companies could avoid the imposition of Australian tax by holding mobile assets through a CFC (rather than in Australia).

The Government proposes to amend the *Income Tax Assessment Act 1936* (ITAA) and the Income Tax Regulations to ensure that:

- tainted income consisting of capital gains on assets deemed to be disposed of by a CFC on its ceasing to be a member of a group, or ceasing to be a CFC, is included in the attributable income of the Australian resident controllers (as the ITAA is currently worded there is uncertainty as to whether this is the case);

- all capital gains accruing, for the purposes of Part IIIA of the ITAA, on the deemed disposal of an asset are taken into account in applying the active income test to a CFC;

- all capital gains accruing for the purposes of Part IIIA of the ITAA are included in the kinds of capital gains that are taken into account in determining whether the gains are designated concession income; and

- taxation of capital gains on the disposal of tainted assets is not avoided or minimised by arrangements designed to dilute the Australian taxpayer's attribution interest in the CFC that holds tainted assets that have received rollover relief.

Because this is an anti-avoidance measure, the amendments to the ITAA and the Income Tax Regulations will apply to disposals (including deemed disposals) of tainted assets occurring after Budget night (after 7.30 pm AEST, 13 May 1997).

WHOLESALE SALES TAX

Wholesale sales tax — Change in temporary importation provisions

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
2	2	2	2

Explanation

An anomaly in the wholesale sales tax system is being removed so that goods cannot be permanently imported sales tax free if they had previously been temporarily imported sales tax free.

Wholesale sales tax applies to assessable sales of goods manufactured in Australia, or imported into Australia. A good that has previously been used in Australia is not subject to sales tax.

The sales tax law allows an exemption from sales tax for goods that are imported for short periods. The special temporary importation provisions are intended to cover goods temporarily imported; for example, by a visiting tourist or for an exhibition, promotion or other special event. Under these provisions, goods can be imported for periods of less than twelve months free of sales tax provided a security or undertaking is given.

There is evidence that these provisions have been used in an unintended manner. Goods have been imported for a short period under the special temporary importation provisions. After being returned overseas, they have then been reimported on a permanent basis free of sales tax because they have previously been used in Australia.

Requisite amendments to the sales tax law to close this loophole will soon be introduced into Parliament; the legislative change will take effect from 7.30 pm AEST, 13 May 1997.

CUSTOMS AND EXCISE DUTY

Revenue savings through fuel substitution minimisation

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
12.5	25	25	25

Explanation

The Government will take measures to prevent illegal blending and direct substitution of petroleum products. This measure will ensure that it will be difficult for those who currently avoid paying the correct rate of excise to continue to do so. The Australian

Customs Service (ACS) advise that currently people are illegally blending and substituting concessionally taxed fuel or tax free products (such as solvents) for fuel taxed at a higher rate.

A chemical tracer (a marker dye or colourless marker) will be added to concessionally taxed fuel and tax free products just prior to their leaving Customs' control and entering the petroleum distribution system. The chemical tracer will enable the ACS to verify that concessionally taxed fuel is indeed being used only for purposes for which the concession is intended. This will assist the ACS to better collect excise properly due under the existing legislation. To give full effect to the intent of Government policy, the Government will legislate to prohibit certain direct fuel substitution activities.

The details of implementation are to be the subject of post-budget consultations between the ACS and the major oil companies, the petroleum products distribution industry, State government revenue and consumer affairs bodies, and other interested parties. The measures will take effect from 1 January 1998.

See also the outlays measure titled 'Increased running costs associated with measures to reduce fuel substitution' described in Part I of this Budget Paper under the Industry, Science and Tourism portfolio.

OTHER MEASURES

Increase in High Court fees

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
1.8	1.8	1.9	1.9

Explanation

From 1 July 1997, fees for High Court hearings and other matters will be increased to bring the level of cost recovery in that court to around 30 per cent. This level is around the level of cost recovery in superior courts in the States and Territories and is consistent with the cost recovery levels announced for other federal courts in the 1996-97 Budget.

Australian Competition and Consumer Commission — New regulatory arrangements for telecommunications

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
1.1	2.3	2.1	1.8

Explanation

The Australian Competition and Consumer Commission (ACCC) will be funded to implement and administer new arrangements and structures to facilitate open competition in the telecommunications market from 1 July 1997 pursuant to the Government's regulatory approach embodied in the *Trade Practices Amendment (Telecommunications) Act 1997*. The costs incurred by the ACCC each financial year will be recovered from the telecommunications industry in the following financial year via annual carrier licence fees. These carrier licence fees are described in the next revenue measure. See also the outlays measure of this title in Part I of this Budget Paper under the Treasury portfolio.

The *Telecommunications (Carrier Licence Charges) Act 1997* will impose charges in relation to carrier licences under the *Telecommunications Act 1997*. Annual carrier licence fees will be levied by the Australian Communications Authority (ACA) and will comprise the costs of resourcing the telecommunications functions and powers of the ACCC and the ACA for the immediately preceding financial year.

The anticipated long-term benefits of the new regulatory regime include:

- open competition in the telecommunications market; and
- more efficient and better quality services in telecommunications.

Cost recovery by AUSTEL to implement telecommunications reform initiatives and for set up costs and new functions of the Australian Communications Authority

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
–	4.2	0.9	0.6

Explanation

Telecommunication carrier licence fees are adjusted each year to recover the costs incurred by the Australian Communications Authority (ACA) in performing its regulatory functions for the previous year.

These measures will result in carrier licence fees being increased in 1998-99 to recover the costs:

- incurred by AUSTEL in 1996-97 and funded in 1997-98 for Government telecommunication initiatives, including implementation of the Customer Service

Guarantee, Telecommunications National Code, and the establishment of a revised National Numbering Plan and charging regime, which were undertaken by AUSTEL prior to the formation of the ACA; and

- associated with merging the functions of the Spectrum Management Agency and AUSTEL into a single regulatory body, the ACA, and for funding provided for new legislative based telecommunication functions.

The corresponding outlays measures are titled 'Funding for costs incurred by AUSTEL in 1996-97 to implement telecommunications reform initiatives' and 'Funding for set up costs and new functions of the Australian Communications Authority' described in Part I of this Budget Paper under the Communications and the Arts portfolio.

Cost recovery for the Australian Communications Authority to enhance administration of cabler licensing

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
0.1	0.1	0.1	0.4

Explanation

The costs incurred by the Australian Communications Authority in administering cabler licensing are recovered through telecommunication cabler licence fees.

Revenue from this measure will be recovered through telecommunications cabler licence fees over the five year period to 2001-02 to offset the costs associated with additional administration of cabler licences, particularly in relation to enhanced inspection and information activities. There will be a lag in the recovery of revenue to offset the outlays provided for this measure due to the timing in renewal of cabler licences.

The corresponding outlays measure is titled 'Funding for the Australian Communications Authority to enhance administration of cabler licensing' in Part I of this Budget Paper under the Communications and the Arts portfolio.

Licence charges payable by telecommunications carriers to meet costs of monitoring industry development

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
0.6	0.6	0.7	0.8

Explanation

The *Telecommunications (Carrier Licence Charges) Act 1997* will be amended to allow the cost of monitoring industry development plans to be recovered from the telecommunications carriers through an increase in annual licensing charges.

Under the Government's post-1997 telecommunications regime, set out in the *Telecommunications Act 1997*, the Department of Industry, Science and Tourism is to monitor the performance of each licensed carrier against their annual industry development plans. Further information on this measure can be found in the outlays measure titled 'Monitoring telecommunications industry development' described in Part I of this Budget Paper under the Industry, Science and Tourism portfolio.

Special dividend from Australia Post

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
80	80	–	–

Explanation

To avoid adding appreciably to Australia Post's significant balances of retained profits built up over a number of years, Australia Post will make special dividend payments in 1997-98 and 1998-99. Over these two years, some of Australia Post's forecast capital expenditure may need to be funded through increased borrowing rather than from retained earnings. The strength of Australia Post's current financial position will allow it to absorb this increased borrowing and still maintain a strong balance sheet. The dividends will also strengthen incentives for Australia Post to continue to improve its efficiency and optimise internal allocation of capital.

Australian Competition and Consumer Commission — Gas regulation role

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
–	1.8	1.5	1.5

Explanation

The Australian Competition and Consumer Commission (ACCC) will perform the function of gas regulator for transmission pipelines under the gas access code that is being developed as part of the Council of Australian Governments' agreed reforms to facilitate free and fair interstate trade in gas. It is proposed that the regulatory costs incurred by the ACCC each financial year will be recovered from the gas industry in the following financial year. The precise mechanism for cost recovery has yet to be finalised.

The ACCC will establish a new Branch to perform this function, the costs of which will be identifiable for the purpose of cost recovery from the industry.

The anticipated long-term benefits of the new regulatory framework include:

- a national regulatory framework underpinning competition for gas transmission; and
- more efficient and better quality services to gas users.

See also the outlays measure of this title described in Part I of this Budget Paper under the Treasury portfolio.

Cost recovery of funding for Airport Environment Officers and Airport Building Controllers at Federal airports subject to sale

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
1.4	1.4	1.4	1.4

Explanation

This measure will allow the Department of Transport and Regional Development to fully recover the costs of contractors performing the statutory functions of an Airport Environment Officer and an Airport Building Controller at airports subject to long-term lease as part of Phase 1 of the sale of Federal airports. There is also a corresponding outlays measure titled ‘Funding of Airport Environment Officers and Airport Building Controllers at Federal airports subject to sale’ described in Part I of this Budget Paper under the Transport and Regional Development portfolio.

User charges will apply as follows:

- Costs of the Airport Environment Officers will be recovered from:
  - — payments by airport lessees to the Department of Transport and Regional Development; and
  - — charges for a limited number of services provided by the Airport Environmental Officers, once legislation to allow such charges is in place, with proceeds being passed on to the Department of Transport and Regional Development.
- Costs of the Airport Building Controllers will be recovered through:
  - — fees for services provided by the Airport Building Controllers which will be passed on by the controllers to the Department of Transport and Regional Development; and
  - — the airport lessee reimbursing the Department of Transport and Regional Development for any cost of the Airport Building Controllers that are not recovered through direct charges on users.

The arrangements will apply to the Phase 1 airports (Melbourne, Brisbane and Perth) when they are sold.

Amendments will be sought to the *Airports Act 1996* to allow Airport Environment Officers to directly charge for certain services.

Reform of the provision of legal services provided by the Attorney-General's Legal Practice to enhance contestability and competitiveness

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
–	6.0	8.7	8.8

Explanation

Returns to the Commonwealth are expected from the restructure of the commercial elements of the business unit into a more commercially focussed organisation (to be known as the Australian Government Solicitor). This will include receipts of taxation and dividend payments to Consolidated Revenue Fund. See also the corresponding outlays measure titled 'Reform of the provision of legal services provided by the Legal Practice to enhance contestability and competitiveness' described in Part I of this Budget Paper under the Attorney-General's portfolio.

Phased increase in industry contribution for the regulation of therapeutic goods

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
3.1	9.9	9.7	9.8

Explanation

The Therapeutic Goods Administration (TGA) has been progressively increasing the level of cost recovery from industry since 1992-93. At the same time, it has been improving its efficiency and reducing turnaround times for approvals. Currently, TGA operational costs are 58 per cent recovered and scheduled to increase to 75 per cent in 1998-99.

This measure will accelerate the rate of increase in the level of cost recovery from industry contributions and eventually increase these to fully recover all costs from industry. The changes will be phased in progressively, with 75 per cent cost recovery in 1997-98 moving to 100 per cent from 1998-99.

This change will be accompanied by a set of reforms within TGA, which are aimed at achieving increased flexibility, greater efficiencies, enhanced international competitiveness of Australian industry and further improving the high standard of medicinal products manufactured in Australia. The reforms are also aimed at freeing business from inappropriate regulatory requirements. Some of the changes include increased use of medicinal evaluation reports and decisions from comparable overseas regulatory agencies, a review of export arrangements to remove unnecessary regulatory obstacles for Australian manufacturers and exporters, and maximising opportunities for mutual recognition or harmonisation of Australia's regulatory requirements with those of countries with comparable standards.

Consumers are also expected to benefit by having more timely access to new products and to the information necessary to ensure appropriate use.

In its undertaking of further efficiency gains, TGA proposes to adopt the European Union Classification System with self-regulation of low risk medical devices which will reduce approval times, and pursue a Mutual Recognition Agreement with the European Union.

Increase in passport fees

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
5.1	5.5	9.1	12.5

Explanation

From 1 July 1997, passport fees will increase for individuals applying for, or renewing, passports. The standard adult passport fee will increase from $120 to $126 per passport.

Extension of the Migration Agents Registration Scheme

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
0.6	–	–	–

Explanation

The Migration Agents Registration Scheme was due to cease in September 1997 but is to be extended to March 1998 to assist in the migration agent industry becoming self-regulating. As the Scheme is currently funded from fees levied on the registration of migration agents, this has meant the continuation of the fees for that period. Further details of the move to self-regulation are set out in the outlays measure of this title described in Part I of this Budget Paper under the Immigration and Multicultural Affairs portfolio.

Increased cost recovery for citizenship processing

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
1.3	2.8	2.8	2.9

Explanation

The fee on applications for citizenship will be increased from $80 to $120 from 1 January 1998 to fully recover the costs associated with the processing and granting of

citizenship. This reflects the Government's commitment to increase cost recovery in the migration process.

Rationalisation of temporary business entry visa sub-classes

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
3.4	3.9	4.4	4.9

Explanation

The Government will introduce a simplified temporary business entry visa sub-class from 1 July 1997. The new visa will be valid for three months, provide for a single entry and allow for up to a three month stay. Previously, the duration of stay was at the discretion of the issuing officer. This change will simplify the administration of visas and make an improved visa available for business clients. A charge of $45 will be introduced to partly recover the processing costs, reflecting the Government's commitment to increase cost recovery in the migration process.

Cost recovery for health assessments, health undertakings and medical reviews

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
3.0	3.0	3.1	3.2

Explanation

This initiative aims to more fully recover costs associated with applications for permanent migration (except refugees and special humanitarian cases) by:

- increasing the fees for applications for permanent migration by $40; and
- introducing a fee for medical review of $330 payable by those who appeal against a rejection on medical grounds of their application for permanent migration.

The related outlays measure titled 'Health assessments, health undertakings and medical reviews' is described in Part I of this Budget Paper under the Immigration and Multicultural Affairs portfolio.

Increased cost recovery for business skills migration

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
0.6	1.2	1.3	1.3

Explanation

The fee for applicants for business migration will be increased from $2,540 to $3,040 from 1 January 1998. This reflects the improvements in service to business clients in this Budget and the Government's commitment to greater cost recovery in the migration process.

The fee will increase from $2,465 to $2,540 from 1 July 1997 to recover the costs of health assessments and the health undertaking service (described in the above revenue measure) and as a result of the normal indexation of the fee to capture price increases.

Merging of the Migration Internal Review Office and the Immigration Review Tribunal

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
2.3	1.9	1.9	1.9

Explanation

The fees for appeals to the Migration Internal Review Office (MIRO) and the Immigration Review Tribunal (IRT) will be increased to $500 from $200 and $300 respectively from 1 July 1997. This will recover a greater share of the cost of appeals from applicants. Fees on applications will be non-refundable.

These bodies will be merged into a new Migration Review Tribunal (MRT) from 1 July 1998 to simplify administration and reduce duplication. The fee for review by the MRT will be $500. The increase in fees for appeals to the MIRO and the IRT will partly cover the transitional costs of this merger.

A new fee of $1,000 will also be introduced for an appeal to the Refugee Review Tribunal. It will be payable after the decision on a review application has been made but will not be imposed in cases where the applicant is deemed to be a refugee.

The related outlays measure of this title is described in Part I of this Budget Paper under the Immigration and Multicultural Affairs portfolio.

Australian Quarantine and Inspection Services — Implementation of reports into quarantine and imported fish and fish products (industry charges)

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
4.7	7.0	7.0	6.6

Explanation

This measure is for increased cost recovery for operational aspects of the Australian Quarantine and Inspection Service activities associated with the Government's response to Professor Nairn's report, *Australian Quarantine — A shared responsibility* (the Nairn Report), and the report of the National Task Force on Imported Fish and Fish Products (the Fish Report).

While the Government will meet a significant proportion of the increased quarantine effort, industry will be required to contribute to the implementation costs of the Nairn and Fish Reports through fees and charges to help reduce the direct call on Australian taxpayers and reinforce the Nairn Report's concept of 'a shared responsibility'.

MEASURES INTRODUCED UP TO THE 1997-98 BUDGET

INCOME TAX

Medicare levy surcharge — Increase in family income threshold for each additional child by $1,500

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
-3	-3	-3	-3

Explanation

In the 1996-97 Budget, the Government announced that a Medicare levy surcharge of one percentage point would be introduced from 1 July 1997 for single individuals with taxable incomes in excess of $50,000 and couples and families with combined taxable incomes in excess of $100,000 (irrespective of the number of children) who do not have private hospital cover through private health insurance.

However, following an amendment made by the Senate to the original legislation, the threshold above which a family without private health insurance is required to pay the Medicare levy surcharge will be increased by $1,500 for each child after the first child. For example, families with one child would still have a threshold of $100,000 while those with two children would have a threshold of $101,500. This amendment is estimated to result in a reduction in revenue of $3 million per annum.

Medical expenses rebate — Reduction in threshold for eligible net medical expenses to $1,250

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
-1	2	4	6

Explanation

In the 1996-97 Budget, the Government announced that the threshold for eligible net medical expenses above which taxpayers are entitled to the Medical Expenses Rebate would be increased from $1,000 to $1,430 for the 1996-97 income year and $1,500 for the 1997-98 and subsequent income years.

However, following amendments made by the Senate to the original legislation, the threshold has been set at $1,250 for 1996-97 and subsequent years. Above this threshold, the rebate will continue to be available, at the rate of 20 cents in the dollar, for eligible expenditure not reimbursed through Medicare or private health insurance.

The combination of the reduced thresholds and an upward revision to the initial revenue estimates (due to revisions to the growth in claims for the rebate) has produced the net changes shown in the above table to the estimates presented in the 1996-97 Budget.

Provisional tax uplift factor

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
–	–	–	–

Explanation

The provisional tax uplift factor has been set at 6 per cent for 1997-98, the same rate as applied in 1996-97. The uplift factor was determined, as set down in the *Income Tax Assessment Act 1936*, by reference to the nominal increase in Gross Domestic Product for the twelve months ending 31 December immediately before the 1997-98 year of income, as published by the Australian Statistician.

Deductibility of gifts

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
*	*	*	*

* The nature of the measure is such that a reliable estimate cannot be provided.

Explanation

The Government announced that gifts of $2 or more to the following bodies would qualify as deductible donations, under the gift provisions of the *Income Tax Assessment Act 1936*, as indicated below:

- from 2 September 1996 to 1 September 1998 inclusive, The Australian National Korean War Memorial Trust Fund (which was given in principle approval by the previous Government);
- from 9 November 1996, The Australia Foundation for Culture and the Humanities (a Government election commitment); and
- from 18 March 1997, The AAP Mawson's Huts Foundation Limited.

On 10 October 1996, the Government announced it had given in principle approval for donations to the Menzies Research Centre to be tax deductible. After the Centre has satisfied the usual public fund requirements, the Government will announce the date from which gifts to the Centre will be tax deductible.

In addition, since the 1996-97 Budget, there have been 41 admissions to the Register of Cultural Organisations and 7 deletions. A further 10 additions and 10 deletions were also made in response to changes in names of organisations.

There have been 15 admissions to the Register of Environmental Organisations and an additional 7 changes in names of organisations already registered since the 1996-97 Budget.

Preventing future access to the Infrastructure Borrowings tax concession

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
–	†	†	†

† The measure will protect the revenue base used for the forward estimates, by removing opportunities for significant future expansion of tax minimisation practices. In the absence of the measure, to the extent that the revenue base would not be protected, there would be a significant revenue loss compared to the forward estimates.

Explanation

On 14 February 1997, the Treasurer announced that the Government would introduce legislation with effect from 12.00 pm (by legal time in the ACT), 14 February 1997 to

prevent the lodging of any new Infrastructure Borrowings (IBs) applications; the issue of any further IB certificates (except where, prior to that time, the Development Allowance Authority had given a written undertaking to issue a certificate); and re-engineering (including amendment) in respect of existing certificates to increase tax benefits. This decision is reflected in the Taxation Laws Amendment (Infrastructure Borrowings) Bill 1997 which was introduced into Parliament on 26 March 1997.

The Government decided to prevent future access to the IBs tax concession because the concession was not achieving its objectives and there would have been a significant budgetary cost if pending IB applications were certified. Benefits from the concession were increasingly being captured by financiers and high marginal tax rate investors. Tax aggressive financing schemes were being proposed which would have resulted in an unacceptable cost to all taxpayers without a commensurate reduction in the cost of funding infrastructure projects. If all pending applications had been approved in their current form, the cost to the revenue could have been more than $4 billion over the three years 1996-97 to 1998-99. If tax aggressive schemes were adopted in all applications, the cost would have been substantially higher.

Taxation of foreign dividends paid on finance shares

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
†	†	†	†

† The measure will protect the revenue base used for the forward estimates, by removing opportunities for significant future expansion of tax minimisation practices. In the absence of the measure, to the extent that the revenue base would not be protected, there would be a significant revenue loss compared to the forward estimates.

Explanation

On 3 February 1997, the Government announced measures to address tax avoidance arrangements involving ‘eligible finance shares’ (EFS) and ‘widely distributed finance shares’ (WDFS). (EFS are held by Australian financial institutions or their subsidiaries whilst WDFS are held by the general public.) Under these arrangements it was possible to effectively convert assessable foreign interest income into exempt foreign non-portfolio dividends by attaching a 10 per cent voting right to the finance shares. The measures announced will protect revenue by ensuring that dividends paid on EFS or WDFS do not attract non-portfolio dividend status.

SUPERANNUATION

Calculating life insurance companies' exempt and taxable income

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
†	†	†	†

† The measure will protect the revenue base used for the forward estimates, by removing opportunities for significant future expansion of tax minimisation practices. In the absence of the measure, to the extent that the revenue base would not be protected, there would be a significant revenue loss compared to the forward estimates.

Explanation

On 29 April 1997, the Government announced amendments to Division 8 of Part III of the *Income Tax Assessment Act 1936* so that the amount of income of a life insurance company that is exempt from tax because it relates to immediate annuity policies is determined on the basis of average calculated liabilities for policies held during the income year rather than on calculated liabilities at the end of the year of income.

Similar averaging arrangements will be extended to the apportionment of income and capital gains between the different classes of business of a life insurance company.

The amendments are being introduced because the present calculation can cause distortions. This is the case where the proportion of calculated liabilities for all policies that is represented by immediate annuity policies at the end of the income year does not reflect the relative proportions of policies held during the income year. The use of average calculated liabilities produces a better reflection of the amount of income that belongs to each of the classes of policy held by a life insurance company and overcomes these distortions.

Details of the methodology for averaging calculated liabilities for policies held during the income year are to be developed in consultation with the industry.

The amendments will apply to the 1997-98 and subsequent years of income. For the 1996-97 year of income, the amendments will apply where there is a significant change in the respective proportions of calculated liabilities for the various groups of policies held by the life insurance company in the period from 29 April 1997 to the end of their 1996-97 income year.

CAPITAL GAINS TAX

Capital gains tax — Extension of rollover relief through shares

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
–	-90	-90	-90

Explanation

On 24 March 1997, the Government announced in *More Time For Business* a further major extension of its initiative to provide capital gains tax (CGT) rollover relief for small business, extending relief to rollover accomplished through the sale of shares. This measure will enable taxpayers actively involved in managing and operating their businesses through companies to obtain rollover relief without separately selling active assets of the company. This provision will allow the sale of business and rollover where this is done through the sale of shares in a company.

An underlying active assets test will prevent rollover relief from applying to gains primarily derived from passive investments and protecting against the extension of relief to sharetraders. The availability of relief is in respect of the sale of shares in an active business for reinvestment in another active business.

The Government will announce further design details of the measure following consultations with the CGT Subcommittee of the Commissioner's National Tax Liaison Group and representatives from the Commissioner's Small Business Consultative Group.

Following that process, the Government will announce further design details of the measure and legislation will be introduced.

The measure will operate with effect from 1 July 1997.

Capital gains tax exemption on the sale of a small business for retirement — Extension to companies and trusts

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
–	-35	-35	-35

Explanation

The Government announced in the Prime Minister's 24 March 1997 statement, *More Time For Business*, that it would extend its 1996-97 Budget measure to provide a capital gains tax exemption on the sale of a small business for retirement to eligible people who operate their small businesses through a private company or trust structure. This will remove the potential for the measure to discriminate against small business people who operate their businesses through such structures.

Legislation to implement this measure was introduced to Parliament on 26 March 1997 in the Taxation Laws Amendment Bill (No. 3) 1997.

Capital losses — Denial of artificially created losses

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
–	†	†	†

† The measure will protect the revenue base used for the forward estimates, by removing opportunities for significant future expansion of tax minimisation practices. In the absence of the measure, to the extent that the revenue base would not be protected, there would be a significant revenue loss compared to the forward estimates.

Explanation

On 29 April 1997, the Government announced it would introduce measures to deny the ability to offset against capital gains certain capital losses artificially created in the past and to prevent the use of such capital losses that may be artificially created in the future. The amendments will not apply where capital losses created prior to this date have been offset against a capital gain in the 1995-96 year of income or an earlier year, or where such losses have been offset in a return for the 1996-97 income year lodged with the Australian Taxation Office (ATO) before 3.00 pm AEST, 29 April 1997. No utilisation of such losses for the current year of income or future income years will be allowed from the date of announcement.

Under the proposed amendments, the income tax law will deny the utilisation of capital losses for the 1996-97 and subsequent years of income (whenever incurred) in strictly defined circumstances outlined below. The amendments will apply to artificial losses created by arrangements entered into before 29 April 1997.

The proposed new provisions will apply where a company which is a member of a corporate group has disposed of an asset to a member of the same group and:

- the group has 100 per cent common ownership;

- the market value of the asset is less than its cost base;

- as a result of the reduction in the market value of the asset rolled over under section 160ZZO of the *Income Tax Assessment Act 1936* (ITAA), the market value of an interest in the disposer, which is held by another member of the same group, has fallen below the relevant cost base of that interest;

- an asset was rolled over under section 160ZZO in relation to the disposal; and

- the asset was disposed of before 29 April 1997.

If these conditions are satisfied, the proposed new provisions will prevent artificially created losses being offset against capital gains in the 1996-97 and subsequent years of

income except where such losses have been offset in a return for the 1996-97 income year lodged with the ATO before 3.00 pm AEST, 29 April 1997.

The only exception is that the proposed amendments will not apply where the asset rolled over was plant, machinery or buildings used both before and after the rollover in a manufacturing business carried on by the company which rolled over the asset and the company which acquired the asset. That asset must be used in the manufacturing business of the company which acquired the rolled over asset for not less than twelve months after the acquisition.

The ATO will also apply the existing general anti-avoidance provisions contained in Part IVA of the ITAA, in appropriate cases, to schemes entered into prior to 29 April 1997 where the scheme has as its sole or dominant purpose the creation of artificial capital gains tax (CGT) losses.

The Government also announced that for capital losses created after 3.00 pm AEST, 29 April 1997, Part IVA will be amended to strengthen its application to arrangements which are designed to artificially create CGT losses. The law will be amended so that Part IVA can apply to the creation of capital losses in the year in which they are incurred, rather than applying only to the amount of loss offset against capital gains in a particular year as is now the case.

The ITAA will be amended to ensure that subsection 177C(2) does not apply to any declaration, election, selection, notice or option arising under a provision relating to CGT rollovers or the transfer of CGT losses.

FRINGE BENEFITS TAX

Fringe benefits tax — Small business

Financial Implications ($m)

	1997-98	1998-99	1999-00	2000-01
Record keeping	-5	-25	-20	-20
Car parking	-25	-50	-35	-35
Taxi travel	*	*	*	*

* The nature of the measure is such that a reliable estimate cannot be provided.

Explanation

In March 1997, the Government responded to the recommendations of the Small Business Deregulation Task Force in the Prime Minister's statement *More Time For Business*. The response included the following measures.

Record keeping

An exemption from fringe benefits tax (FBT) record keeping for small business is to be provided where an employer has submitted a return in a base year with $5,000 or less in taxable benefits and thereafter does not significantly alter the amount of benefits

provided in each year. In the subsequent years, the employer would pay the amount of FBT relating to the amount of taxable benefits established in the base year. The record keeping exemption will be available to all employers who meet these requirements, other than government bodies and tax exempt bodies, and will apply from the date the legislation is enacted.

The employer would be required to recommence record keeping if there was a material change in benefits provided that could result in an increase of more than 20 per cent in benefits compared to the base year (or by more than $100 if this is greater). In this regard, the onus of proof would continue to lie with the taxpayer. The employer would also need to establish a new base year to vary down the annual amount of FBT.

The record keeping exemption will allow a reduction in compliance costs for small FBT payers who do not make a material change in the amount and type of benefits provided each year.

Car parking

With effect from 1 April 1997, small businesses are exempt from FBT on car parking on their business premises. For the purpose of the exemption, small business employers will be taxpayers (other than government bodies and listed public companies and their subsidiaries) with gross incomes of less than $10 million.

In addition, with effect from 1 July 1997, the Government will remove the provisions that specifically deny deductibility for car parking for self-employed persons in circumstances where FBT would have applied to car parking for employees.

Taxi travel

The arrangements for employee taxi travel have been simplified by extending the existing FBT exemption to cover a taxi trip arriving at or leaving from the place of work at any time of the day, with effect from 1 April 1997. The exemption from FBT for taxi travel provided to sick employees continues to apply.

OTHER MEASURES

Retain the current maximum charge for English language tuition under the Adult Migrant English Programme

Financial Implications ($m)

1997-98	1998-99	1999-00	2000-01
-1.5	-1.8	-1.9	-1.9

Explanation

This measure reflects the Government’s decision not to proceed at this time with an increase to the maximum charge which was proposed in the 1996-97 Budget.