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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

MEDICARE LEVY AMENDMENT (DISABILITYCARE AUSTRALIA) BILL 2013
FRINGE BENEFITS TAX AMENDMENT (DISABILITYCARE AUSTRALIA)
BILL 2013
INCOME TAX RATES AMENDMENT (DISABILITYCARE AUSTRALIA)
BILL 2013
SUPERANNUATION (EXCESS CONCESSIONAL CONTRIBUTIONS TAX)
AMENDMENT (DISABILITYCARE AUSTRALIA) BILL 2013
SUPERANNUATION (EXCESS NON-CONCESSIONAL CONTRIBUTIONS TAX)
AMENDMENT (DISABILITYCARE AUSTRALIA) BILL 2013
SUPERANNUATION (EXCESS UNTAXED ROLL-OVER AMOUNTS TAX)
AMENDMENT (DISABILITYCARE AUSTRALIA) BILL 2013
INCOME TAX (TFN WITHHOLDING TAX (ESS)) AMENDMENT
(DISABILITYCARE AUSTRALIA) BILL 2013
INCOME TAX (FIRST HOME SAVER ACCOUNTS MISUSE TAX)
AMENDMENT (DISABILITYCARE AUSTRALIA) BILL 2013
FAMILY TRUST DISTRIBUTION TAX (PRIMARY LIABILITY) AMENDMENT
(DISABILITYCARE AUSTRALIA) BILL 2013
TAXATION (TRUSTEE BENEFICIARY NON-DISCLOSURE TAX) (NO. 1)
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AMENDMENT (DISABILITYCARE AUSTRALIA) BILL 2013

EXPLANATORY MEMORANDUM

(Circulated by the authority of the
Deputy Prime Minister and Treasurer, the Hon Wayne Swan MP)

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Glossary

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

| <i>Abbreviation</i> | <i>Definition</i> |
|---------------------|---------------------------------------|
| FHSA | First Home Saver Account |
| ITAA 1936 | <i>Income Tax Assessment Act 1936</i> |
| ITAA 1997 | <i>Income Tax Assessment Act 1997</i> |
| TFN | tax file number |

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General outline and financial impact

Change to the Medicare levy rate

Schedule 1 to the Medicare Levy Amendment (DisabilityCare Australia) Bill 2013 amends the *Medicare Levy Act 1986* to increase the Medicare levy rate from 1.5 to 2 per cent of taxable income for the 2014-15 income year and later income years.

Schedule 1 to each of the Fringe Benefits Tax Amendment (DisabilityCare Australia) Bill 2013, the Income Tax Rates Amendment (DisabilityCare Australia) Bill 2013, the Superannuation (Excess Concessional Contributions Tax) Amendment (DisabilityCare Australia) Bill 2013, the Superannuation (Excess Non-concessional Contributions Tax) Amendment (DisabilityCare Australia) Bill 2013, the Superannuation (Excess Untaxed Roll-over Amounts Tax) Amendment (DisabilityCare Australia) Bill 2013, the Income Tax (TFN Withholding Tax (ESS)) Amendment (DisabilityCare Australia) Bill 2013, the Income Tax (First Home Saver Accounts Misuse Tax) Amendment (DisabilityCare Australia) Bill 2013, the Family Trust Distribution Tax (Primary Liability) Amendment (DisabilityCare Australia) Bill 2013, the Taxation (Trustee Beneficiary Non-disclosure Tax) (No. 1) Amendment (DisabilityCare Australia) Bill 2013 and the Taxation (Trustee Beneficiary Non-disclosure Tax) (No. 2) Amendment (DisabilityCare Australia) Bill 2013 incorporate this rate change into other Acts.

Date of effect: This measure applies to the 2014-15 income year and later income years. The amendments to the *Fringe Benefits Tax Act 1986* apply to the fringe benefits tax year beginning on 1 April 2014 and later fringe benefits tax years.

Proposal announced: This measure was announced in the Prime Minister's, Deputy Prime Minister and Treasurer's and the Minister for Disability Reform's joint Media Release No. 057 of 1 May 2013.

Financial impact: This measure has the following revenue implications:

| <i>2013-14</i> | <i>2014-15</i> | <i>2015-16</i> | <i>2016-17</i> |
|-----------------------|-----------------------|-----------------------|-----------------------|
| Nil | \$3,300m | \$3,850m | \$4,200m |

Human rights implications: These Bills do not raise any human rights issues. See *Statement of Compatibility with Human Rights* — Chapter 2, paragraphs 2.1 to 2.6.

Compliance cost impact: Low.

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Chapter 1

Change to the Medicare levy rate

Outline of chapter

1.1 Schedule 1 to the Medicare Levy Amendment (DisabilityCare Australia) Bill 2013 amends the *Medicare Levy Act 1986* to increase the Medicare levy rate from 1.5 to 2 per cent of taxable income for the 2014-15 income year and later income years.

1.2 Schedule 1 to each of the following Bills incorporates this rate change into other Acts:

- Fringe Benefits Tax Amendment (DisabilityCare Australia) Bill 2013;
- Income Tax Rates Amendment (DisabilityCare Australia) Bill 2013;
- Superannuation (Excess Concessional Contributions Tax) Amendment (DisabilityCare Australia) Bill 2013;
- Superannuation (Excess Non-concessional Contributions Tax) Amendment (DisabilityCare Australia) Bill 2013;
- Superannuation (Excess Untaxed Roll-over Amounts Tax) Amendment (DisabilityCare Australia) Bill 2013;
- Income Tax (TFN Withholding Tax (ESS)) Amendment (DisabilityCare Australia) Bill 2013;
- Income Tax (First Home Saver Accounts Misuse Tax) Amendment (DisabilityCare Australia) Bill 2013;
- Family Trust Distribution Tax (Primary Liability) Amendment (DisabilityCare Australia) Bill 2013;
- Taxation (Trustee Beneficiary Non-disclosure Tax) (No. 1) Amendment (DisabilityCare Australia) Bill 2013; and
- Taxation (Trustee Beneficiary Non-disclosure Tax) (No. 2) Amendment (DisabilityCare Australia) Bill 2013.

Context of amendments

1.3 The *National Disability Insurance Scheme Act 2013* established the National Disability Insurance Scheme, known as DisabilityCare Australia. The establishment of DisabilityCare Australia is Australia's most fundamental social reform since the creation of Medicare.

1.4 DisabilityCare Australia will ensure that Australians with significant and permanent disabilities get the support they need, and will allow them to live with choice and dignity.

1.5 To provide a strong and stable revenue stream for DisabilityCare Australia, the Government is increasing the Medicare levy by half a percentage point. This will provide certainty to people with a disability, their families and carers, that DisabilityCare Australia will be funded in the long term.

1.6 All revenue raised from increasing the Medicare levy will be placed in a special fund, the DisabilityCare Australia Fund, which is being established by the DisabilityCare Australia Fund Bill 2013. The Fund will operate for a fixed period of ten years from 2014 to 2024, and will be managed by the Future Fund Board of Guardians. The Fund will hold and invest the additional revenue from increasing the Medicare levy for the purpose of reimbursing the Commonwealth and States for expenditure on DisabilityCare Australia.

1.7 The Medicare levy was introduced in 1984 at a rate of 1 per cent of taxable income to offset the cost of establishing Medicare Australia. It was last permanently increased over 18 years ago.

1.8 The Medicare levy currently applies at a rate of 1.5 per cent of a person's taxable income. Low income earners receive relief from the Medicare levy through the low income thresholds for singles, families, seniors and pensioners. A number of people are also exempt from the Medicare levy, including blind pensioners and sickness allowance recipients.

1.9 From 1 July 2014, the Medicare levy will increase by half a percentage point from 1.5 per cent to 2 per cent of a person's taxable income. Low income earners will continue to receive relief through the low income thresholds and the current exemptions from the Medicare levy will remain in place.

1.10 Increasing the Medicare levy also requires a number of consequential amendments to other tax rates that are linked to the top marginal rate and the Medicare levy. Consequential amendments include changes to fringe benefits tax, excess contributions tax and the tax

withheld on bank accounts when the account holder has not provided their tax file number.

1.11 Increasing the Medicare levy will raise an estimated \$3.3 billion in 2014-15 and \$20.4 billion between 2014-15 and 2018-19.

Summary of new law

1.12 Schedule 1 to the Medicare Levy Amendment (DisabilityCare Australia) Bill 2013 amends the *Medicare Levy Act 1986* to increase the Medicare levy rate from 1.5 to 2 per cent for the 2014-15 income year and later income years. Schedule 1 to each of the following Bills amends each Act to incorporate this rate change, as listed in table 1.1.

Table 1.1: Consequential amendments

| Bill | Act being amended | Provisions |
|---|--|--------------------|
| Fringe Benefits Tax Amendment (DisabilityCare Australia) Bill 2013 | <i>Fringe Benefits Tax Act 1986</i> | Section 6 |
| Income Tax Rates Amendment (DisabilityCare Australia) Bill 2013 | <i>Income Tax Rates Act 1986</i> | Paragraph 29(2)(a) |
| Superannuation (Excess Concessional Contributions Tax) Amendment (DisabilityCare Australia) Bill 2013 | <i>Superannuation (Excess Concessional Contributions Tax) Act 2007</i> | Section 5 |
| Superannuation (Excess Non-concessional Contributions Tax) Amendment (DisabilityCare Australia) Bill 2013 | <i>Superannuation (Excess Non-concessional Contributions Tax) Act 2007</i> | Section 5 |

| Bill | Act being amended | Provisions |
|--|---|-------------------|
| Superannuation (Excess Untaxed Roll-over Amounts Tax) Amendment (DisabilityCare Australia) Bill 2013 | <i>Superannuation (Excess Untaxed Roll-over Amounts Tax) Act 2007</i> | Paragraph 5(2)(b) |
| Income Tax (TFN Withholding Tax (ESS)) Amendment (DisabilityCare Australia) Bill 2013 | <i>Income Tax (TFN Withholding Tax (ESS)) Act 2009</i> | Section 4 |
| Income Tax (First Home Saver Accounts Misuse Tax) Amendment (DisabilityCare Australia) Bill 2013 | <i>Income Tax (First Home Saver Accounts Misuse Tax) Act 2008</i> | Section 3 |
| Family Trust Distribution Tax (Primary Liability) Amendment (DisabilityCare Australia) Bill 2013 | <i>Family Trust Distribution Tax (Primary Liability) Act 1998</i> | Section 4 |
| Taxation (Trustee Beneficiary Non-disclosure Tax) (No. 1) Amendment (DisabilityCare Australia) Bill 2013 | <i>Taxation (Trustee Beneficiary Non-disclosure Tax) Act (No. 1) 2007</i> | Section 4 |
| Taxation (Trustee Beneficiary Non-disclosure Tax) (No. 2) Amendment (DisabilityCare Australia) Bill 2013 | <i>Taxation (Trustee Beneficiary Non-disclosure Tax) Act (No. 2) 2007</i> | Section 4 |

Comparison of key features of new law and current law

| <i>New law</i> | <i>Current law</i> |
|--|--|
| The Medicare levy rate is 2 per cent for the 2014-15 income year and later income years. | The Medicare levy rate is 1.5 per cent. |
| The Medicare levy rate incorporated into other Acts is 2 per cent. | The Medicare levy rate incorporated into other Acts is 1.5 per cent. |

Detailed explanation of new law

Change to the Medicare levy rate

Medicare Levy Amendment (DisabilityCare Australia) Bill 2013

1.13 The Medicare levy is imposed by section 5 of the *Medicare Levy Act 1986*.

1.14 Section 6 of the *Medicare Levy Act 1986* specifies the rate of the Medicare levy. The rate of the Medicare levy payable by a person, a person who is liable to be assessed on a share of the net income of a trust estate as a trustee under section 98 of the *Income Tax Assessment Act 1936* (ITAA 1936), and a person who is liable to be assessed on the share of the net income of a trust estate as a beneficiary under section 99 or 99A of the ITAA 1936, will increase from 1.5 per cent to 2 per cent. *[Schedule 1 to the Medicare Levy Amendment (DisabilityCare Australia) Bill 2013, items 1 to 3, subsections 6(1) to 6(3) of the Medicare Levy Act 1986]*

1.15 Section 7 of the *Medicare Levy Act 1986* provides that the Medicare levy phases-in at a rate of 10 cents in the dollar for particular taxpayers with income between certain amounts.

1.16 The upper phase-in amount for the net income or part of the net income of a trust estate, where a person in the capacity of trustee of a trust is liable to assessment under section 99 of the ITAA 1936, will increase from \$490 to \$520 to reflect the new Medicare levy rate. *[Schedule 1 to the Medicare Levy Amendment (DisabilityCare Australia) Bill 2013, item 4, subsection 7(4) of the Medicare Levy Act 1986]*

1.17 Section 8 of the *Medicare Levy Act 1986* specifies the formula for calculating the amount of a person's Medicare levy liability where that person has a spouse or dependants. The Medicare levy rate components of the formula specified in subsection 8(2) will be amended to reflect the increased rate. *[Schedule 1 to the Medicare Levy Amendment (DisabilityCare Australia) Bill 2013, items 5 and 6, subsection 8(2) of the Medicare Levy Act 1986]*

Application and transitional provisions

1.18 The amendments apply to assessments for the 2014-15 income year and later income years. [*Schedule 1 to the Medicare Levy Amendment (DisabilityCare Australia) Bill 2013, item 7*]

Consequential amendments

Fringe Benefits Tax Amendment (DisabilityCare Australia) Bill 2013

1.19 Section 5 of the *Fringe Benefits Tax Act 1986* imposes tax on the fringe benefits taxable amount of an employer for each year of tax, and sets the rate of that tax.

1.20 The Fringe Benefits Tax Amendment (DisabilityCare Australia) Bill 2013 will increase the rate of tax in respect of the fringe benefits taxable amount of an employer for a year of tax from 46.5 to 47 per cent (which is the sum of the maximum income tax rate under Part I of Schedule 7 to the *Income Tax Rates Act 1986* (currently 45 per cent) and the increased rate of the Medicare levy (2 per cent)). [*Schedule 1 to the Fringe Benefits Tax Amendment (DisabilityCare Australia) Bill 2013, item 1, section 6 of the Fringe Benefits Tax Act 1986*]

1.21 This amendment applies to the year of tax beginning on 1 April 2014 and later years of tax. [*Schedule 1 to the Fringe Benefits Tax Amendment (DisabilityCare Australia) Bill 2013, item 2*]

Income Tax Rates Amendment (DisabilityCare Australia) Bill 2013

1.22 Section 29 of the *Income Tax Rates Act 1986* specifies the rate of tax payable by trustees of complying and non-complying superannuation funds, and retirement savings account providers in respect of no-TFN contributions income.

1.23 The rate of tax is calculated in accordance with subsection 29(2) of the *Income Tax Rates Act 1986*. The Income Tax Rates Amendment (DisabilityCare Australia) Bill 2013 will increase the component of the rate of tax calculation, which incorporates the Medicare levy rate, from 1.5 to 2 per cent. [*Schedule 1 to the Income Tax Rates Amendment (DisabilityCare Australia) Bill 2013, item 1, paragraph 29(2)(a) of the Income Tax Rates Act 1986*]

1.24 This amendment applies to assessments for the 2014-15 income year and later income years. [*Schedule 1 to the Income Tax Rates Amendment (DisabilityCare Australia) Bill 2013, item 2*]

Superannuation (Excess Concessional Contributions Tax) Amendment (DisabilityCare Australia) Bill 2013

1.25 Section 4 of the *Superannuation (Excess Concessional Contributions Tax) Act 2007* imposes excess concessional contributions tax, which is payable under section 292-15 of the *Income Tax Assessment Act 1997* (ITAA 1997).

1.26 Section 292-15 of the ITAA 1997 provides that this tax is payable by an individual if they make excess concessional contributions in a financial year. Subdivision 292-B of the ITAA 1997 sets out the thresholds where concessional contributions become excess concessional contributions, and also how to work out the amount of an individual's concessional contributions.

1.27 The Superannuation (Excess Concessional Contributions Tax) Amendment (DisabilityCare Australia) Bill 2013 will increase the rate at which excess concessional contributions tax is payable from 31.5 to 32 per cent of an individual's excess concessional contributions for a financial year (which is the sum of the maximum income tax rate under Part I of Schedule 7 to the *Income Tax Rates Act 1986* (currently 45 per cent) and the increased Medicare levy rate (2 per cent), less the general rate of tax paid by most superannuation funds (15 per cent)). [Schedule 1 to the *Superannuation (Excess Concessional Contributions Tax) Amendment (DisabilityCare Australia) Bill 2013*, item 1, section 5 of the *Superannuation (Excess Concessional Contributions Tax) Act 2007*]

1.28 This amendment applies to assessments for the 2014-15 financial year and later financial years. [Schedule 1 to the *Superannuation (Excess Concessional Contributions Tax) Amendment (DisabilityCare Australia) Bill 2013*, item 2]

Superannuation (Excess Non-concessional Contributions Tax) Amendment (DisabilityCare Australia) Bill 2013

1.29 Section 4 of the *Superannuation (Excess Non-concessional Contributions Tax) Act 2007* imposes excess non-concessional contributions tax, which is payable under section 292-80 of the ITAA 1997.

1.30 Section 292-80 of the ITAA 1997 provides that this tax is payable by an individual if they make excess non-concessional contributions in a financial year. Subdivision 292-C of the ITAA 1997 sets out the thresholds where non-concessional contributions become excess non-concessional contributions, and also how to work out the amount of an individual's non-concessional contributions.

1.31 The Superannuation (Excess Non-concessional Contributions Tax) Amendment (DisabilityCare Australia) Bill 2013 will increase the rate at which excess non-concessional contributions tax is payable from 46.5 to 47 per cent of an individual's excess non-concessional contributions for a financial year (which is the sum of the maximum income tax rate under Part I of Schedule 7 to the *Income Tax Rates Act 1986* (currently 45 per cent) and the increased Medicare levy rate (2 per cent). [*Schedule 1 to the Superannuation (Excess Non-concessional Contributions Tax) Amendment (DisabilityCare Australia) Bill 2013, item 1, section 5 of the Superannuation (Excess Non-concessional Contributions Tax) Act 2007*]

1.32 This amendment applies to assessments for the 2014-15 financial year and later financial years. [*Schedule 1 to the Superannuation (Excess Non-concessional Contributions Tax) Amendment (DisabilityCare Australia) Bill 2013, item 2*]

Superannuation (Excess Untaxed Roll-over Amounts Tax) Amendment (DisabilityCare Australia) Bill 2013

1.33 Section 4 of the *Superannuation (Excess Untaxed Roll-over Amounts Tax) Act 2007* imposes tax on an excess untaxed roll-over amount, which is payable under section 306-15 of the ITAA 1997.

1.34 The amount of the tax is a percentage of the excess untaxed roll-over amount. The Superannuation (Excess Untaxed Roll-over Amounts Tax) Amendment (DisabilityCare Australia) Bill 2013 will increase the amount of the tax from 46.5 to 47 per cent (which is the sum of the maximum income tax rate under Part I of Schedule 7 to the *Income Tax Rates Act 1936* (currently 45 per cent) and the increased Medicare Levy rate (2 per cent)). [*Schedule 1 to the Superannuation (Excess Untaxed Roll-over Amounts Tax) Amendment (DisabilityCare Australia) Bill 2013, item 1, paragraph 5(2)(a) of the Superannuation (Excess Untaxed Roll-over Amounts Tax) Act 2007*]

1.35 This amendment applies to excess untaxed roll-over amounts paid on or after 1 July 2014. [*Schedule 1 to the Superannuation (Excess Untaxed Roll-over Amounts Tax) Amendment (DisabilityCare Australia) Bill 2013, item 2*]

Income Tax (TFN Withholding Tax (ESS)) Amendment (DisabilityCare Australia) Bill 2013

1.36 Section 3 of the *Income Tax (TFN Withholding Tax (ESS)) Act 2009* imposes income tax on amounts that are included in an individual's assessable income under Division 83A of the ITAA 1997 as a result of a company providing one or more ESS interests under an employee share scheme, and the individual has not quoted an ABN or a tax file number (TFN).

1.37 The Income Tax (TFN Withholding Tax (ESS)) Amendment (DisabilityCare Australia) Bill 2013 will increase the rate of tax from 46.5 to 47 per cent (which is the sum of the maximum income tax rate under Part I of Schedule 7 to the *Income Tax Rates Act 1986* (currently 45 per cent), and the increased Medicare levy rate (2 per cent)). [*Schedule 1 to the Income Tax (TFN Withholding Tax (ESS)) Amendment (DisabilityCare Australia) Bill 2013, item 1, section 4 of the Income Tax (TFN Withholding Tax (ESS)) Act 2009*]

1.38 This amendment applies to ESS interests (within the meaning of the ITAA 1997) provided on or after 1 July 2014. [*Schedule 1 to the Income Tax (TFN Withholding Tax (ESS)) Amendment (DisabilityCare Australia) Bill 2013, item 2*]

Income Tax (First Home Saver Accounts Misuse Tax) Amendment (DisabilityCare Australia) Bill 2013

1.39 Section 4 of the *Income Tax (First Home Saver Accounts Misuse Tax) Act 2008* imposes income tax on payments from a First Home Saver Account (FHSA) held by an individual, to the extent that it is payable where an account holder improperly uses an FHSA and money is paid from the FHSA for the purchase of a first home, in accordance with section 345-100 of the ITAA 1997.

1.40 The amount of tax is calculated by reference to the 'adjusted maximum tax rate', which is the sum of the maximum income tax rate under Part I of Schedule 7 to the *Income Tax Rates Act 1986* (currently 45 per cent) and the Medicare levy rate. The Income Tax (First Home Saver Accounts Misuse Tax) Amendment (DisabilityCare Australia) Bill 2013 will increase the Medicare levy rate to 2 per cent. [*Schedule 1 to the Income Tax (First Home Saver Accounts Misuse Tax) Amendment (DisabilityCare Australia) Bill 2013, item 1, definition of adjusted maximum tax rate in section 3 of the Income Tax (First Home Saver Accounts Misuse Tax) Act 2008*]

1.41 This amendment applies to payments from a FHSA (within the meaning of the ITAA 1997) made on or after 1 July 2014. [*Schedule 1 to the Income Tax (First Home Saver Accounts Misuse Tax) Amendment (DisabilityCare Amendment) Bill 2013, item 2*]

Family Trust Distribution Tax (Primary Liability) Amendment (DisabilityCare Australia) Bill 2013

1.42 Section 3 of the *Family Trust Distribution Tax (Primary Liability) Act 1998* imposes tax payable under section 271-15, 271-20, 271-25, 271-30 or 271-55 in Schedule 2F to the ITAA 1936 (trust losses and other deductions), on the amount or value of income or capital.

1.43 The Family Trust Distribution Tax (Primary Liability) Amendment (DisabilityCare Australia) Bill 2013 will increase the rate of tax payable from 46.5 to 47 per cent (which is the sum of the maximum income tax rate under Part I of Schedule 7 to the *Income Tax Rates Act 1986* (currently 45 per cent), and the increased rate of the Medicare levy (2 per cent)). [*Schedule 1 to the Family Trust Distribution Tax (Primary Liability) Amendment (DisabilityCare Australia) Bill 2013, item 1, section 4 of the Family Trust Distribution Tax (Primary Liability) Act 1998*]

1.44 This amendment applies to tax payable under section 271-55 in Schedule 2F to the ITAA 1936 for notices mentioned in that section that are given by the Commissioner on or after 1 July 2014. Otherwise, the amendment applies to present entitlements conferred, or distributions made, on or after 1 July 2014. [*Schedule 1 to the Family Trust Distribution Tax (Primary Liability) Amendment (DisabilityCare Australia) Bill 2013, item 2*]

Taxation (Trustee Beneficiary Non-disclosure Tax) (No. 1) Amendment (DisabilityCare Australia) Bill 2013

1.45 The *Taxation (Trustee Beneficiary Non-disclosure Tax) Act (No. 1) 2007* imposes the tax payable under paragraph 102UK(2)(a) of the ITAA 1936. Section 102UK of the ITAA 1936 concerns trustee beneficiary non-disclosure tax where a share of the net income of the trust is distributed to the trustee of a closely held trust and there is no correct trustee beneficiary statement.

1.46 The Taxation (Trustee Beneficiary Non-disclosure Tax) (No. 1) Amendment (DisabilityCare Australia) Bill 2013 will increase the rate of the tax from 46.5 to 47 per cent (which is the sum of the maximum income tax rate payable under the Part I of Schedule 7 to the *Income Tax Rates Act 1986* (currently 45 per cent) and the increased Medicare levy rate (2 per cent)). [*Schedule 1 to the Taxation (Trustee Beneficiary Non-disclosure Tax) (No. 1) Amendment (DisabilityCare Australia) Bill 2013, item 1, section 4 of the Taxation (Trustee Beneficiary Non-disclosure Tax) Act (No. 1) 2007*]

1.47 This amendment applies to the 2014-15 income year and later income years. [*Schedule 1 to the Taxation (Trustee Beneficiary Non-disclosure Tax) (No. 1) Amendment (DisabilityCare Australia) Bill 2013, item 2*]

Taxation (Trustee Beneficiary Non-disclosure Tax) (No. 2) Amendment (DisabilityCare Australia) Bill 2013

1.48 The *Taxation (Trustee Beneficiary Non-disclosure Tax) Act (No. 2) 2007* imposes the tax payable under paragraph 102UM(2)(a) of the ITAA 1936. Section 102UM of the ITAA 1936 concerns trustee beneficiary non-disclosure tax where a share of the net income of the trust

is distributed to the trustee of a closely held trust, and section 102UK does not apply.

1.49 The Taxation (Trustee Beneficiary Non-disclosure Tax) (No. 2) Amendment (DisabilityCare Australia) Bill 2013 will increase the rate of the tax to 47 per cent (which is the sum of the maximum income tax rate payable under the Part I of Schedule 7 to the *Income Tax Rates Act 1986* (currently 45 per cent) plus the Medicare levy (2 per cent)). [*Schedule 1 to the Taxation (Trustee Beneficiary Non-disclosure Tax) (No. 2) Amendment (DisabilityCare Australia) Bill 2013, item 1, section 4 of the Taxation (Trustee Beneficiary Non-disclosure Tax) Act (No. 2) 2007*]

1.50 This amendment applies to the 2014-15 income year and later income years. [*Schedule 1 to the Taxation Trustee Beneficiary Non-disclosure Tax) (No. 2) Amendment (DisabilityCare Australia) Bill 2013, item 2*]

EXPOSURE DRAFT 13.5.13

Chapter 2 Statement of Compatibility with Human Rights

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

Medicare Levy Amendment (DisabilityCare Australia) Bill 2013

Fringe Benefits Tax Amendment (DisabilityCare Australia) Bill 2013

Income Tax Rates Amendment (DisabilityCare Australia) Bill 2013

Superannuation (Excess Concessional Contributions Tax) Amendment (DisabilityCare Australia) Bill 2013

Superannuation (Excess Non-concessional Contributions Tax) Amendment (DisabilityCare Australia) Bill 2013

Superannuation (Excess Untaxed Roll-over Amounts Tax) Amendment (DisabilityCare Australia) Bill 2013

Income Tax (TFN Withholding Tax (ESS)) Amendment (DisabilityCare Australia) Bill 2013

Income Tax (First Home Saver Accounts Misuse Tax) Amendment (DisabilityCare Australia) Bill 2013

Family Trust Distribution Tax (Primary Liability) Amendment (DisabilityCare Australia) Bill 2013

Taxation (Trustee Beneficiary Non-disclosure Tax) (No. 1) Amendment (DisabilityCare Australia) Bill 2013

Taxation (Trustee Beneficiary Non-disclosure Tax) (No. 2) Amendment (DisabilityCare Australia) Bill 2013

2.1 These Bills are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview

2.2 The Medicare Levy Amendment (DisabilityCare Australia) Bill 2013 amends the *Medicare Levy Act 1986* to increase the rate of the Medicare levy to 2 per cent. The remaining Bills make a number of consequential amendments, incorporating the rate change into other Acts that refer to the Medicare levy rate.

2.3 The purpose of increasing the Medicare levy rate is to fund DisabilityCare Australia, the National Disability Insurance Scheme. The establishment of DisabilityCare Australia complements existing measures to remove discrimination against persons with disabilities in Australia, and to provide them with support and assistance, such as the *Disability Discrimination Act 1992*, the *Disability Services Act 1986*; the provision of income support through the Disability Support Pension, Carer Payment and Carer Allowance; and Commonwealth, State and Territory government programs, the National Disability Strategy, and the National Disability Agreement.

2.4 For further information regarding the human rights implications of the National Disability Insurance Scheme, refer to the Statement of Compatibility which accompanied the National Disability Insurance Scheme Bill 2012.

Human rights implications

2.5 These Bills do not engage any of the applicable rights or freedoms.

Conclusion

2.6 These Bills are compatible with human rights as they do not raise any human rights issues.

**Deputy Prime Minister and Treasurer,
the Hon Wayne Swan MP**

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Schedule 1: Medicare Levy Amendment (DisabilityCare Australia) Bill 2013

| <i>Bill reference</i> | <i>Paragraph number</i> |
|--|--|
| Items 1 to 3, subsections 6(1) to 6(3) of the Medicare Levy Act 1986 | 1.14 |
| Item 1, section 6 of the Fringe Benefits Tax Act 1986 | 1.20 |
| Item 1, paragraph 29(2)(a) of the Income Tax Rates Act 1986 | 1.23 |
| Item 1, section 5 of the Superannuation (Excess Concessional Contributions Tax) Act 2007 | 1.27 |
| Item 1, section 5 of the Superannuation (Excess Non-concessional Contributions Tax) Act 2007 | 1.31 |
| Item 1, paragraph 5(2)(a) of the Superannuation (Excess Untaxed Roll-over Amounts Tax) Act 2007 | 1.34 |
| Item 1, section 4 of the Income Tax (TFN Withholding Tax (ESS)) Act 2009 | 1.37 |
| Item 1, definition of adjusted maximum tax rate in section 3 of the Income Tax (First Home Saver Accounts Misuse Tax) Act 2008 | 1.40 |
| Item 1, section 4 of the Family Trust Distribution Tax (Primary Liability) Act 1998 | 1.43 |
| Item 1, section 4 of the Taxation (Trustee Beneficiary Non-disclosure Tax) Act (No. 1) 2007 | 1.46 |
| Item 1, section 4 of the Taxation (Trustee Beneficiary Non-disclosure Tax) Act (No. 2) 2007 | 1.49 |
| Item 2 | 1.21, 1.24, 1.28, 1.32, 1.35, 1.38, 1.41, 1.44, 1.47, 1.50 |
| Item 4, subsection 7(4) of the Medicare Levy Act 1986 | 1.16 |
| Items 5 and 6, subsection 8(2) of the Medicare Levy Act 1986 | 1.17 |
| Item 7 | 1.18 |