

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, this Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Taxation Determination

Income tax: is a 'prescribed person' liable for half the medicare levy if that person maintains a spouse who is not a 'prescribed person'?

1. Medicare levy is not payable by a person who is a 'prescribed person' during the whole year of income (section 251T of the *Income Tax Assessment Act 1936*). A person is a prescribed person if he or she falls within the definition contained in subsection 251U (1). Entitlement to prescribed person status is conditional on that person's dependants also being prescribed persons (subsection 251U (2)).
2. A person who is a prescribed person by reason of being a member of the Australian Defence Forces or is in receipt of certain social security or repatriation benefits is liable for half the levy if he or she maintains a spouse who is not a prescribed person (subsection 251U (3)).
3. However, from the year of income commencing 1 July 1989 relief is provided to eligible 'prescribed persons' defined under subsection 251R(6A) if that person has a spouse who pays the levy. The effect of the relief provision is to treat the spouse as not being a dependant of the 'prescribed person' (subsection 251R (6B)). The full medicare levy exemption applies in this case.

Example 1:

Jane is a defence force member. Her husband Tim is solely dependent on her salary. Jane is liable for one-half of the medicare levy otherwise payable.

Example 2:

John is a defence force member. His wife Ann is a teacher who is required to pay the levy on her own taxable income. Ann is not treated as a dependant of John and he is fully exempted from the medicare levy.

Commissioner of Taxation

17/6/93

FOI INDEX DETAIL: Reference No. I 1215125

Previously issued as Draft TD 93/D14

Related Determinations:

Related Rulings: IT 2365

Subject Ref: defence force; medicare levy; spouse

Legislative Ref: ITAA 251R(6A)-(6D); 251U(3)

Case Ref: U18 1987 ATC 180

ATO Ref: BAN TD 24

ISSN 1038 - 8982