IT 2365 - Income tax : medicare levy payable by persons entitled to full free medical treatment : dependants for medicare levy purposes

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TAXATION RULING NO. IT 2365

INCOME TAX : MEDICARE LEVY PAYABLE BY PERSONS ENTITLED TO FULL FREE MEDICAL TREATMENT : DEPENDANTS FOR MEDICARE LEVY PURPOSES

F.O.I. EMBARGO: May be released

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REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1209061	MEDICARE	251R
	PRESCRIBED PERSONS	251T
		251U(1)(2)&(3)

PREAMBLE The purpose of this Ruling is to clarify the circumstances in which a person who is entitled to full free medical treatment under repatriation or defence force arrangements, or who holds a non-income tested health card, may be required to pay half the Medicare levy. Uncertainty regarding liability to pay the levy has arisen in circumstances where there is a spouse or dependent children.

2. When the Medicare levy was introduced provision was made to give relief from the levy to certain classes of persons, i.e. veterans and war widows, defence force members and holders of Pensioner Health Benefits Cards, Health Benefits Cards and Health Care Cards on a non-income tested basis - the income of the person, or of his or her spouse, was not taken into account in determining eligibility for benefit.

RULING Repatriation Beneficiaries and Defence Force Members

3. The broad principle is that a repatriation beneficiary or defence force member who is personally entitled to full free medical treatment under repatriation or defence force arrangements and who does not have any dependants or who has dependants who are also eligible for full free medical treatment, either under repatriation or defence force arrangements or in their own right, is completely exempt from the levy.

4. If a repatriation beneficiary or defence force member is personally entitled to full free medical benefit but has a spouse or one or more dependent children not so entitled, either by repatriation or defence force arrangements or otherwise, relief is given for one-half of the levy that is payable by non-exempt persons. Partial relief from the levy is provided in these circumstances because the spouse or dependants are eligible for benefits under the Medicare scheme. The spouse and dependants may not be in receipt of income and, had full

exemption from the levy been granted, there would not have been any contribution made towards the cost of Medicare for persons who were entitled to benefit under it.

5. Where a dependant has a taxable income in excess of the relevant Medicare levy threshold and is required to pay the levy the liability of the repatriation beneficiary or defence force member to pay half the levy remains unaltered. Moreover, it will often be the case that the repatriation beneficiary or defence force member maintains other dependants, covered by Medicare, who do not derive an income or contribute to the cost of the Medicare scheme.

Health Card Holders

6. Relief corresponding to that provided for repatriation beneficiaries and defence force members is granted to persons who hold non-income tested health cards. Where the person has a spouse or dependants full relief from the levy is granted where the spouse or dependants are named on the card held by the person or hold non-income tested health cards in their own right. In other cases relief is restricted to payment of half the levy.

Dependants

7. For Medicare levy purposes the spouse and children under 16 of a repatriation beneficiary, defence force member or health card holder are treated as dependants provided they are Australian residents and the repatriation beneficiary, defence force member or health card holder contributes in any way to their maintenance. A child aged 16 to 24 who is a full-time student is also included as a dependant if his or her separate net income is less that $1786.

8. For Medicare levy purposes a man and woman living together in a de facto relationship are regarded as legally married and a "child" includes an adopted child, a step-child and an ex-nuptial child.

9. Where parents are divorced or separated and each contributes to the maintenance of a child the child is taken to be a dependant solely of the parent who is entitled to receive family allowance in respect of the child.

10. A person is taken to have contributed to the maintenance of a spouse or dependent child during any period in which they reside together unless the contrary is proven. This means, for example, that a husband and wife living together who are each in receipt of income are, for Medicare levy purposes, each treated as a person who has a dependant. Each is regarded as a dependant of the other.

11. It is open to persons living together to prove that they have not contributed to the maintenance of each other by providing evidence establishing beyond doubt that each was self-supporting. Generally, the starting point in such an

exercise would be a detailed record of actual household expenses and the amounts contributed by each person. Normal domestic sharing arrangements, e.g. a common account to which each person contributes and which is used to meet joint expenses, is not ordinarily sufficient to establish that one person has not contributed to the maintenance of the other.

Part Year Relief from the Levy

12. Where a repatriation beneficiary, defence force member or health card holder is entitled to relief from the Medicare levy for only part of the year of income an appropriate portion of the full year relief is granted.

COMMISSIONER OF TAXATION
24 September 1986