

# ***TR 93/31 - Income tax: transfer of pensioner rebate between partners***

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## Taxation Ruling

### Income tax: transfer of pensioner rebate between partners

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*This Ruling, 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 Ruling is a public ruling and how it is binding on the Commissioner.*

contents	para
<b>What this Ruling is about</b>	<b>1</b>
<b>Ruling</b>	<b>3</b>
<b>Date of effect</b>	<b>9</b>
<b>Definitions</b>	<b>10</b>
<b>Examples</b>	<b>11</b>

### **What this Ruling is about**

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1. This Ruling explains:
  - (a) when the unused portion of a partnered pensioner's rebate may be transferred to the other partner;
  - (b) how to calculate the unused portion of the pensioner rebate to be transferred to the other partner;
  - (c) how to calculate the pensioner rebate for a partner to whom some unused pensioner rebate has been transferred; and
  - (d) how to calculate the adjusted pensioner rebate threshold for a partner to whom some unused pensioner rebate has been transferred.
2. A number of terms used in this Ruling are explained in the Definitions section of the Ruling (see paragraph 10).

### **Ruling**

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- (a) **When the unused portion of a partnered pensioner's rebate may be transferred to the other partner**
3. Where;
    - (a) two people are members of a couple;
    - (b) one partner is in receipt of a Social Security or Veteran's Entitlement rebatable partnered-rate pension and the other is in receipt of either a Social Security or Veteran's

# TR 93/31

Entitlement rebatable partnered-rate pension or an exempt pension; and

- (c) the tax calculated on a partner's taxable income is less than the pensioner rebate;

then the unused portion of the pensioner rebate may be transferred to the other partner.

**(b) How to calculate the unused portion of the pensioner rebate to be transferred to the other partner**

4. The unused portion of the pensioner rebate is the difference between the pension rebate and the tax calculated on the greater of the taxable income or notional taxable income.

5. By notional taxable income we mean the taxable income plus any exempt Social Security and Veteran's Entitlement pension income as defined in this Ruling.

**(c) How to calculate the pensioner rebate for a partner to whom some unused pensioner rebate has been transferred**

6. The pensioner rebate for a partner to whom some unused pensioner rebate has been transferred is referred to as the maximum adjusted rebate. The maximum adjusted rebate is

the partnered pensioner rebate

plus

the unused portion of the pensioner rebate transferred from the other partner.

**(d) How to calculate the adjusted pensioner rebate threshold for a partner to whom some unused pensioner rebate has been transferred**

7. The adjusted pensioner rebate threshold is

the general tax free threshold

plus

the maximum adjusted rebate divided by the lowest marginal tax rate.

8. Finally, the rebate to which this partner is now entitled to is

- (a) the maximum adjusted rebate

less

- (b) the difference between

- (i) the taxable income, and
  - (ii) the adjusted pensioner rebate threshold,
- all divided by 8.

## **Date of effect**

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9. This Ruling applies to years commencing both before and after its date of issue. However, the Ruling 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 Ruling (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

## **Definitions**

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10. The following definition of key terms apply for this Ruling:

### **partner**

- means a person who is a member of a couple which is defined as a person who is

- (a) legally married to another person and not living separately and apart from the other person; or
- (b) not legally married but living in a marriage-like relationship with a member of the opposite sex and both parties are above the age of consent and the relationship is not a prohibited relationship under 23 B of the *Marriage Act 1961*.

### **partnered**

- refers to the term 'partner'.

### **rebtable pension**

- has the same meaning as appears in subsection 160AAA(1) of the *Income Tax Assessment Act 1936* i.e. means a pension, allowance or benefit under

- (a) the *Veteran's Entitlements Act 1986* (other than Part VII); or
- (b) the *Social Security Act 1991* (other than Part 2.11, 2.12, 2.14 or 2.15).

**TR 93/31****rebatable partnered-rate pension**

- means a rebatable pension paid to;

partnered pensioners where the pensioner receives the partnered rate of pension during the year; or

partnered pensioners where the pensioner receives the separated rate of pension during the year, because as a result of illness or infirmity the couple are unable to live together.

**pensioner rebate**

- has the same meaning as appears in subsection 160AAA(2) ITAA and for the following years is;

	1990/91	1991/92	1992/93
Single rate	912	932	972
Partnered rate	599	618	654
Partnered rate (Separated by illness)	859	880	920.

**pensioner rebate threshold**

- means the maximum taxable income at which the pensioner is entitled to the full rebate. That is, the rebate reduces by 12.5 cents for each dollar of additional taxable income when the taxable income exceeds those thresholds. The thresholds for the following years are

	1990/91	1991/92	1992/93
Single rate	9,699	10,060	10,260
Partnered rate	8,172	8,490	8,670
Partnered rate (Separated by illness)	9,441	9,800	10,000.

**exempt pension income**

- means the following Social Security or Veteran's Entitlement pensions where those pensions are exempt from taxation under Division 1AA of Part III of the *Income Tax Assessment Act 1936*;

- (a) a disability support (formerly invalid) pension;
- (b) a carer's pension;
- (c) a carer's service pension;
- (d) a wife's pension;
- (e) an invalidity service pension; and

- (f) a partner service pension;  
does not include other exempt payments, for example,  
supplementary payments such as rent assistance.

**notional taxable income**

- means the sum of the taxable income plus any exempt pension income.

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**Examples**

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**Example 1**

11. The year is the 1991/92 income year.

Mr and Mrs Young are both pensioners in receipt of rebatable partnered-rate pensions.

Mr Young's Taxable Income is \$6,900.

Mrs Young's Taxable Income is \$14,000.

Neither Mr nor Mrs Young are in receipt of exempt pension income.

The maximum pensioner rebate available to Mr Young is \$618.

The tax calculated on his taxable income of \$6,900 is \$300.

**How to calculate the unused portion of the rebate to be transferred to Mr Young's partner.**

The unused portion of the pensioner rebate is the difference between the pension rebate and the tax calculated on the taxable income or notional taxable income.

In Mr Young's case because he receives no exempt income it is the difference between \$618 and \$300 which is \$318.

**How to calculate the pensioner rebate for Mrs Young.**

Mrs Young's maximum adjusted rebate is

the partnered pensioner rebate

plus

the unused portion of the pensioner rebate transferred from Mr Young.

That is, \$618 plus \$318, which is \$936

**TR 93/31****How to calculate the adjusted pensioner rebate threshold for Mrs Young.**

Mrs Young's adjusted pensioner rebate threshold is

the general tax free threshold		\$5,400
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plus

the maximum adjusted rebate divided	\$936	
by the lowest marginal tax rate.	.20	\$4,680

That is,		\$10,080
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The rebate to which Mrs Young is now entitled is

the maximum adjusted rebate		\$936
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less

the difference between

the taxable income and	\$14,000	
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the adjusted pensioner rebate threshold	<u>\$10,080</u>	
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all divided by 8.	\$3,920	<u>\$490</u>
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That is,		<b>\$446</b>
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**Example 2**

The year is the 1991/92 income year.

Mr and Mrs Oddfellow are both pensioners in receipt of rebatable partnered-rate pensions.

Mr Oddfellow's Taxable Income is \$6,900.

Mrs Oddfellow's Taxable Income is \$9,000.

Mr Oddfellow is also in receipt of an exempt pension of \$1,000.

The maximum pensioner rebate available to Mr Oddfellow is \$618.

The tax calculated on his notional taxable income of \$6,900 plus \$1,000 is \$500.

**How to calculate the unused portion of the rebate to be transferred to Mr Oddfellow's partner.**

The unused portion of the pensioner rebate is the difference between the pension rebate and the tax calculated on the taxable income or notional taxable income.

In Mr Oddfellow's case because he receives an exempt pension it is the difference between \$618 and \$500 which is \$118.

**How to calculate the pensioner rebate for Mrs Oddfellow.**

Mrs Oddfellow's maximum adjusted rebate is

the partnered pensioner rebate

plus

the unused portion of the pensioner rebate transferred from Mr Oddfellow.

That is \$618 plus \$118, which is \$736

**How to calculate the adjusted pensioner rebate threshold for Mrs Oddfellow.**

Mrs Oddfellow's adjusted pensioner rebate threshold is

the general tax free threshold		\$5,400
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plus

the maximum adjusted rebate divided	\$736	
by the lowest marginal tax rate.	.20	\$3,680

That is,		\$9,080
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The rebate to which Mrs Oddfellow is now entitled is

the maximum adjusted rebate		\$736
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less

the difference between

the taxable income, and	\$9,000	
the adjusted pensioner rebate threshold	<u>\$9,080</u>	
all divided by 8.	-\$80	<u>Nil</u>

That is		<b>\$736</b>
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As Mrs Oddfellow's taxable income is less than the adjusted pensioner rebate threshold no adjustment is necessary to the maximum adjusted rebate.

Because the tax calculated on her taxable income is less than the rebate available no tax will be payable nor is any refund due.

**TR 93/31****Example 3**

The year is the 1991/92 income year.

Mr Single and Ms Alone are both pensioners in receipt of rebatable partnered-rate pensions.

Mr Single's Taxable Income is \$5,000.

Ms Alone's Taxable Income is \$11,580.

Neither Mr Single nor Ms Alone are in receipt of an exempt pension.

The maximum pensioner rebate available to Mr Single is \$618.

The tax calculated on his taxable income is nil.

**How to calculate the unused portion of the rebate to be transferred to Mr Single's partner.**

The unused portion of the pensioner rebate is the difference between the pension rebate and the tax calculated on the taxable income or notional taxable income.

In Mr Single's case because he receives no exempt income it is the difference between \$618 and 0 which is \$618.

**How to calculate the pensioner rebate for Ms Alone.**

Ms Alone's maximum adjusted rebate is  
the partnered pensioner rebate  
plus  
the unused portion of the pensioner rebate transferred from Mr Alone.  
That is, \$618 plus \$618, which is \$1,236

**How to calculate the adjusted pensioner rebate threshold for Ms Alone.**

Ms Alone's adjusted pensioner rebate threshold is		
the general tax free threshold		\$5,400
plus		
the maximum adjusted rebate divided	\$1,236	
by the lowest marginal tax rate.	.20	\$6,180
That is,		\$11,580

The rebate to which Ms Alone is now entitled is		
the maximum adjusted rebate		\$1,236
less		
the difference between		
the taxable income, and	\$11,580	
the adjusted pensioner rebate threshold, <u>\$11,580</u>		
all divided by 8.	Nil	<u>Nil</u>
That is		<b>\$1,236</b>

As Ms Alone's taxable income is equal to the adjusted pensioner rebate threshold no adjustment is necessary to the maximum adjusted rebate.

Because the tax calculated on her taxable income is equal to the rebate available no tax will be payable nor is any refund due.

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### Commissioner of Taxation

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- rebate

*legislative references*

- ITAA 160AAA