TD 93/D14 - Income tax: is a 'prescribed person' liable for half the Medicare levy if that person maintains a spouse who is not a 'prescribed person'?

This cover sheet is provided for information only. It does not form part of *TD 93/D14 - Income tax: is a 'prescribed person' liable for half the Medicare levy if that person maintains a spouse who is not a 'prescribed person'?*

This document has been finalised by TD 93/103.

Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.

Draft 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 of the year of income (section 251 T 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 the 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 of receiving certain social security on 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 an eligible 'prescribed person', as defined under section 251R(6A), it 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). In this case, the prescribed person is entitled to the full Medicare levy exemption.

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
21/01/93

FOI INDEX DETAIL: Reference No.
Related Determinations:
Related Rulings: IT 2365
Subject Ref: defence force; medicare levy; spouse
Legislative Ref: ITAA 251R(6A)-(6D); ITAA 251U(3)
Case Ref:
ATO Ref: BAN TD 24

ISSN 1038 - 8982