TR 93/D34 - Income tax: Medicare Levy - Defence Force Personnel on Overseas Postings

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This document has been finalised by TR 93/37.

Generated on: 4 June 2026, 02:32:52 AM

Draft Taxation Ruling
Income tax: Medicare Levy - Defence Force Personnel on Overseas Postings

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TD93/103

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Draft Taxation Rulings (DTRs) represent the preliminary, though considered, views of the Australian Taxation Office.

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What this Ruling is about

1. Paragraph 251U(1)(a) of the *Income Tax Assessment Act 1936* exempts Defence Force personnel from liability to the Medicare levy provided they are entitled to receive free medical treatment and provided, also, that all of their dependants are entitled to receive free medical treatment. Where dependants are not so entitled the levy is generally payable by the Defence Force member at half the normal rate.

2. This ruling deals with the liability of Defence Force personnel on overseas postings.

Ruling

3. Dependants covered by the special arrangements at Butterworth are prescribed persons in terms of paragraph 251U(1)(a). Accordingly, Defence Force personnel posted to Butterworth Airbase will not be liable to pay half the levy in respect of dependants. It is important to note that sub-section 251U(2) requires every dependant to be a prescribed person. If, for example, a dependant child does not accompany the family to Butterworth Airbase but remains at school in Australia and is not otherwise entitled to free medical treatment then

not all dependants would be prescribed persons. In these circumstances there would be a liability for half the levy.

4. In postings other than to Butterworth Airbase it is considered that the reimbursement arrangements for dependants of Defence Force personnel do not constitute free medical treatment in terms of section 251U. Defence Force personnel with dependants who are posted to the other areas are liable for half the levy, subject to the relief provisions explained in paragraph 6 below.

Date of effect

5. 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).

Explanations

6. From the year of income commencing 1 July 1989, relief from payment of half the Medicare levy is available to those Defence Force personnel who have dependants who are all subject to the levy on their own separate income or who have a spouse who is liable to pay the levy and contributes to the maintenance of all dependants. In these circumstances, the full Medicare exemption applies to the Defence Force personnel.

7. Defence force personnel on an overseas posting are currently entitled to a reimbursement of any excess medical costs on 'prescribed services' over $25 in a financial year for an eligible person not more than 15 years of age and $59 for any other case. A 'prescribed service' is defined as: 'a health service rendered outside Australia for which, if rendered in Australia by a duly qualified practitioner, a person would be entitled to be paid a Medicare benefit'. It is considered that these reimbursement arrangements do not constitute free medical treatment in terms of section 251U.

8. Special conditions of service exist for Defence Force personnel posted to the Butterworth Airbase in Malaysia. Under long-standing arrangements the families of members accompanying them to Malaysia are entitled to free medical, dental, hospitalisation and optometry treatment from the RAAF medical organisation at Butterworth.

Commissioner of Taxation

12 August 1993

ISSN 1039 - 0731

ATO references
NO 85/6477-9
BO NEWTR1

Not previously released to the public in draft form

Price $0.30

FOI index detail
reference number

subject references
- Medicare Levy
- Defence Forces
- Overseas Postings

legislative references
- ITAA 251T
- ITAA 251U

case references