

Commonwealth of Australia

Veterans' Entitlements Act 1986

**Veterans' Entitlements Income (Exempt Lump Sum - Compensation)  
Determination**

**No. R18 of 2004**

I, JEANETTE RICKETTS, Branch Head, Income Support Branch, Department of Veterans' Affairs, and delegate of the Repatriation Commission, pursuant to paragraph 5H(12)(c) of the *Veterans' Entitlements Act 1986* (VEA) determine that an amount specified in Part 2 of the Schedule is an exempt lump sum for the purposes of the definition of "ordinary income" in subsection 5H(1) of the VEA.

Dated this   Twenty Second    day of       September       2004.

JEANETTE RICKETTS

## SCHEDULE

### Part 1: Preliminary and Interpretation

#### 1. EXPLANATION

- 1.1 Paragraph 5H(12)(c) of the *Act* enables the *Repatriation Commission* to determine that an amount, or one of a class of amounts, is an exempt lump sum - the consequence of which is that the amount, or class of amounts, is not ordinary income for the purposes of the *Act*.

#### 1.2 NAME OF DETERMINATION

- 1.2.1 This Determination is the *Veterans' Entitlements Income (Exempt Lump Sum - Compensation) Determination No. R18 of 2004*

#### 1.3 COMMENCEMENT OF DETERMINATION

- 1.3.1 This Determination takes effect when it is signed by the Commission-delegate.

#### 1.4 DEFINITIONS

- 1.4.1 In this Determination:

“**Act**” means the *Veterans' Entitlements Act 1986*.

“**Centrelink**” means the organisation established under section 6 of the *Commonwealth Services Delivery Agency Act 1997* and known as Centrelink.

“**compensation payment**” means a payment under the Compensation for Detriment Caused by Defective Administration scheme (CDDA) or a payment known as an "Act of Grace payment" made under section 33 of the *Financial Management and Accountability Act 1997*.

Note: CDDA is an administrative scheme established under the Commonwealth's inherent constitutional powers and by Cabinet Decision 24 October 1995 to enable Commonwealth agencies to compensate persons who have been adversely affected by the 'defective' actions or inaction of such agencies, but who have no other avenues to seek redress.

**“Family Assistance law”** means the *A New Tax System (Family Assistance) Act 1999* or the *A New Tax System (Family Assistance) (Administration) Act 1999*.

**“service pension”** has the meaning given in subsection 5Q(1) of the *Act*.

**“income support supplement”** means the payment called the income support supplement payable under Part IIIA of the *Act*.

**“partner”** has the meaning given in subsection 5E(1) of the *Act*.

## **PART 2: EXEMPT LUMP SUM**

### **2.1 If:**

- (a) a person has received a *compensation payment*; and
- (b) the *compensation payment* was paid:
  - (i) to reimburse expenses or compensate for other financial loss incurred by a person due to an administrative error made by an employee of, or contractor to, the Department of Veterans' Affairs, or by the Repatriation Commission; or
  - (ii) in lieu of an amount payable under the *Act*; and
- (c) the person is eligible for, or in receipt of, a *service pension* or *income support supplement*;

then any amount received by the person, as a *compensation payment*, is an exempt lump sum.

## 2.2

If:

- (a) a person (VEA-person) or the partner of a VEA-person (partner) has received a *compensation payment*; and
- (b) the *compensation payment* was paid:
  - (i) to reimburse expenses or other financial loss incurred by the VEA-person or the partner due to an administrative error made by an employee of, or contractor to, Centrelink or the Department of Veterans' Affairs; or
  - (ii) in lieu of an amount payable to the VEA-person or to the partner under the *Social Security Act 1991*, the *Family Assistance law* or the *Veterans' Entitlements Act 1986*; and
- (c) the VEA-person is eligible for, or in receipt of, a *service pension* or *income support supplement*;

then the amount received by the VEA-person or the partner, as a *compensation payment*, is an exempt lump sum.

## PART 3 APPLICATION – EXEMPT LUMP SUMS

### 3.1

A compensation payment that is an exempt lump sum under Part 2 is an exempt lump sum on and from the date the payment was received - being a date not before the commencement of this Determination.

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REPATRIATION COMMISSION