

## **When Can a Taxpayer Filing as MFS Claim a Spouse's Personal Exemption?**

**(For tax years 2017 and prior)**

If you file a separate return, you can claim the exemption for your spouse only if your spouse had no gross income, is not filing a return, and can't be claimed as a dependent on another taxpayer's return (even if the other taxpayer does not claim the spouse).

This also applies for nonresident alien spouses. In the initial filing year, the taxpayer could request an ITIN for the nonresident alien spouse and have the nonresident alien spouse sign the 1040, W7 ITIN application, and the MFJ residency declaration. In following years, the taxpayer could file MFS and claim the nonresident alien spouse's personal exemption (avoiding the requirement of the spouse's signature on the tax return), as long as the nonresident spouse has no gross income for U.S. tax purposes, has an ITIN, and isn't the dependent of another U.S. taxpayer.

If you are a surviving spouse without gross income and you remarry in the year your spouse died, you can be claimed as an exemption on both the final separate return of your deceased spouse and the separate return of your new spouse for that year. If you file a joint return with your new spouse, you can be claimed as an exemption only on that return.