



Transferable tax allowances for married couples and civil partners

Who is likely to be affected?

Income tax payers, employers and pension providers.

General description of the measure

This measure will allow a spouse or civil partner who is not liable to income tax above the basic rate to transfer up to £1,000 of their personal allowance to their spouse or civil partner, provided that the recipient of the transfer is not liable to income tax above the basic rate.

Policy objective

This measure recognises marriage and civil partnerships in the income tax system. Taking the tax liabilities of a couple together, it can provide a financial benefit where one spouse or civil partner has an income less than their personal allowance.

Background to the measure

This measure was confirmed on 5 December 2013.

Detailed proposal

Operative date

This measure will have effect from the 2015-16 tax year, commencing 6 April 2015.

Further details on making claims will be set out in due course.

Current law

Sections 35, 36 and 37 of the Income Tax Act 2007 (ITA) provide a personal allowance for people according to their date of birth and their income. These personal allowances provide an amount of tax-free income for a tax year.

These allowances cannot be transferred to another individual.

Sections 45 and 46 ITA provide married couple's allowance to married couples or civil partnerships where one or both spouses or civil partners were born before 6 April 1935. The allowance is given effect as a reduction to an individual's income tax liability (for 2014-15, up to £816.50 and a minimum of £314). Sections 47 to 52 ITA provide for the transfer of married couple's allowance between spouses or civil partners including the transfer of unused relief.

Section 6 ITA provides the main rates of income tax (basic rate, higher rate and additional rate). Section 10 provides the basic rate limit. Section 13 ITA provides alternative rates of income tax for dividends otherwise taxable at the main rates. Dividends otherwise taxable at the basic rate of income tax are taxable at the dividend ordinary rate. Section 12 provides a starting rate for savings, which is an alternative rate of income tax available in limited circumstances.

Proposed revisions

Legislation will be introduced in Finance Bill 2014 to provide that from the 2015-16 tax year, a spouse or civil partner who is not liable to income tax because their income is below their personal allowance or who is liable to income tax at the basic rate, dividend ordinary rate or the starting rate for savings will be able to elect to transfer £1,000 of their personal allowance to their spouse or civil partner. There will be a corresponding reduction to the transferring spouse's or civil partner's personal allowance.

A spouse or civil partner who is liable to income tax at the basic rate, dividend ordinary rate or the starting rate for savings will be able to claim the transferred personal allowance. The transferred allowance will be given effect as a reduction to the recipient's income tax liability at the basic rate of tax.

From 2016-17 the transferable amount will be increased to reflect increases to the personal allowance for those born after 5 April 1948.

Further provisions will account for changes to individuals' marital or civil partnership status such as divorce, dissolution and death.

Married couples or civil partnerships entitled to claim the married couple's allowance will not be entitled to make a transfer.

Summary of impacts

Exchequer impact (£m)	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
	-	-	-495	-600	-660	-775
	These figures are set out in Table 2.1 of the Autumn Statement and have been certified by the Office for Budget Responsibility. More details can be found in the policy costings document published alongside the Autumn Statement.					
Economic impact	This measure is expected to increase real household disposable incomes. This might feed through to higher consumption or savings in the household sector.					
Impact on individuals and households	4.1 million non-taxpayer/basic rate taxpayer married couples stand to gain an average of £196 between them. Around 295,000 individuals may lose by an average of £99 (in 2015-16), where their reduced allowance brings them into tax. However in these cases the couple will still see a financial benefit.					
Equalities impacts	Couples will benefit as a unit, but the majority (84 per cent) of individual gainers will be male. This reflects earning patterns in the population more generally. 35 per cent of couples who stand to gain will be above state pension age. No other equalities impacts are expected. Further details on the claims process will be set out in due course. HM Revenue & Customs (HMRC) will ensure that everyone who is entitled is able to claim the transferable allowance.					

Impact on business including civil society organisations	<p>In line with the current Pay As You Earn (PAYE) process, where the transfer of allowances is given effect via individuals' PAYE tax codes, employers and pension providers will need to process and operate revised codes at the time of the initial claim or when circumstances change. Generally speaking, changes to individuals' tax codes are a routine annual event for employers and pension providers and ad hoc changes to tax codes occur regularly throughout the year.</p> <p>However, it is estimated that in 2015-16, the cost across 1.6 million employers and pension providers of processing PAYE tax codes to reflect transferred allowances may be up to £5.8 million. In subsequent years, the additional cost across employers and pension providers may be up to £0.8 million. There are also likely to be negligible one-off costs in 2015-16 due to employers and pension providers familiarising themselves with the change to the legislation.</p>		
		Cost	Time period (years)
	Compliance Costs		
	One-off Costs	Negligible	N/A
	Average annual costs	£1.7m	5
	Total Costs (PV)	£8.7m	N/a
	Compliance Benefits		
	One-off benefit	N/A	N/A
	Average Annual Benefit	N/A	N/A
	Total Benefit (PV)	N/A	N/A
	Total Benefit (NPV)	-£8.7m	
	Impact on Administrative Burden (included in Net Benefit)		
	Increase	Decrease	Net Impact
	£5.8m	£0	£5.8m
	<p>Note: The impact on administrative burden (included in net benefit) represents the expected cost for the first year. The £1.7 million included in compliance costs represents the average amount over five years.</p>		

Operational impact (£m) (HMRC or other)	There will be set-up costs for HMRC including the development costs associated with processing claims and other IT change to enable the transfer to be implemented using existing PAYE and Self Assessment processes. There will also be ongoing costs to the Department.
Other impacts	Other impacts have been considered and none have been identified.

Monitoring and evaluation

HMRC and HM Treasury will monitor take-up.

Further advice

If you have any questions about this change, please contact Paul Thomas on 03000 586524 (email: paul.thomas@hmrc.gsi.gov.uk).

1 Tax relief for married couples and civil partners

- (1) ITA 2007 is amended as follows.
- (2) After section 55 insert –

“CHAPTER 3A

TRANSFERABLE TAX ALLOWANCE FOR MARRIED COUPLES AND CIVIL PARTNERS

Introduction

55A Tax reduction under Chapter

- (1) This Chapter contains provisions about the entitlement of a spouse or civil partner to a tax reduction in a case where the other party to the marriage or civil partnership has elected for a reduced personal allowance.
- (2) A tax reduction under this Chapter is given effect at Step 6 of the calculation in section 23.
- (3) For the effect of section 809B (claim for remittance basis to apply) applying to an individual for a tax year, see section 809G (no entitlement to tax reduction).

Tax reduction

55B Tax reduction: entitlement

- (1) An individual is entitled to a tax reduction for a tax year of the appropriate percentage of the transferable amount if –
 - (a) the individual makes a claim, and
 - (b) the conditions in subsection (2) are met.
- (2) The conditions are that –
 - (a) the individual is married to, or in a civil partnership with, the same person (“the individual’s spouse or civil partner”) –
 - (i) for the whole or part of the tax year, and
 - (ii) when the claim is made,
 - (b) the individual is not, for the tax year, liable to tax at a rate other than the basic rate, the dividend ordinary rate or the starting rate for savings,
 - (c) the individual’s spouse or civil partner makes an election for the purposes of this section which is in force for the tax year (see section 55D),

- (d) the individual meets the requirements of section 56 (residence) for the tax year, and
 - (e) neither the individual nor the individual's spouse or civil partner makes a claim for the tax year under section 45 (married couple's allowance: marriages before 5 December 2005) or section 46 (married couple's allowance: marriages and civil partnerships on or after 5 December 2005).
- (3) "The appropriate percentage" is the basic rate at which the individual would be charged to income tax for the tax year to which the reduction relates.
- (4) "The transferable amount" –
- (a) for the tax year 2015-16, is £1000, and
 - (b) for the tax year 2016-17 and subsequent tax years, is given by the formula –
- $$\frac{1000}{PA1} \times PA2$$
- where –
- PA1 is the amount of personal allowance specified in section 35(1) for the tax year 2015-16, and
 - PA2 is the amount of personal allowance specified in that section for the tax year to which the reduction relates.
- (5) If the transferable amount calculated in accordance with subsection (4) would otherwise not be a multiple of £10, it is to be rounded up to the nearest amount which is a multiple of £10.
- (6) If an individual is entitled to a tax reduction under subsection (1), the personal allowance to which the individual's spouse or civil partner is entitled under section 35, 36 or 37 is reduced for the tax year by the transferable amount.
- (7) If an individual who is entitled to a tax reduction for a tax year under subsection (1) dies during that tax year, subsection (6) is to be ignored (but this does not affect the individual's entitlement to the tax reduction).

55C Procedure for claims for tax reduction

- (1) This section applies to claims under section 55B(1).
- (2) A claim is to be made not more than 4 years after the end of the tax year to which it relates.
- (3) A claim continues in force in each subsequent tax year if the conditions in section 55B(2) continue to be met, unless –
 - (a) subsection (4) applies, or
 - (b) the claim is withdrawn.
- (4) Where a claim is made after the end of the tax year to which it relates, the claim has effect for the tax year to which it relates only (and accordingly does not continue in force for subsequent tax years under subsection (3)).

- (5) A claim may be withdrawn only by a notice given by the individual by whom the claim was made.
- (6) The withdrawal of a claim under subsection (5) does not, except in the cases dealt with by subsection (7), have effect until the tax year after the one in which the notice is given.
- (7) The withdrawal of a claim under subsection (5) has effect for the tax year in which the notice is given if—
 - (a) in a case where the individual concerned met the condition in section 55B(2)(a) by reason of being married, the marriage has come to an end in that tax year, or
 - (b) in a case where the individual concerned met the condition in section 55B(2)(a) by reason of being in a civil partnership, the civil partnership has come to an end in that tax year.
- (8) For the purposes of subsection (7)(a), a marriage comes to an end if any of the following is made in respect of it—
 - (a) a decree absolute of divorce, a decree of nullity of marriage or a decree of judicial separation, or
 - (b) in Scotland, a decree of divorce, a declarator of nullity or a decree of separation.
- (9) For the purposes of subsection (7)(b), a civil partnership comes to an end if any of the following is made in respect of it—
 - (a) a dissolution order or nullity order, which has been made final,
 - (b) a separation order, or
 - (c) in Scotland, a decree of dissolution, a declarator of nullity or a decree of separation.
- (10) A notice under subsection (5) must—
 - (a) be given to an officer of Revenue and Customs, and
 - (b) must be in the form specified by the Commissioners for Her Majesty's Revenue and Customs.

Election to reduce personal allowance

55D Election to reduce personal allowance

- (1) An individual may make an election for the purposes of section 55B(2)(c) if—
 - (a) the individual is married to, or in a civil partnership with, the same person—
 - (i) for the whole or part of the tax year concerned, and
 - (ii) when the election is made,
 - (b) the individual is entitled to a personal allowance under section 35, 36 or 37 for that tax year,
 - (c) assuming the individual's personal allowance was reduced as set out in section 55B(6), the individual would not for that year be liable to tax at a rate other than the basic rate, the dividend ordinary rate or the starting rate for savings, and
 - (d) where the individual meets the requirements of section 56 (residence) for the tax year by reason of meeting the condition

in subsection (3) of that section, the individual meets the condition in subsection (2) of this section.

- (2) The condition is that the individual's hypothetical net income for the tax year concerned is less than the amount of the personal allowance to which the individual is entitled for that tax year under section 35, 36 or 37.
- (3) For the purposes of subsection (2), an individual's "hypothetical net income" is the amount that would be that individual's net income calculated at Step 2 of section 23 if that individual's income tax liability were calculated on the basis that the individual –
 - (a) was UK resident for the tax year concerned (and the year was not a split year),
 - (b) was domiciled in the United Kingdom for that tax year,
 - (c) in that tax year, did not fall to be regarded as resident in a country outside the United Kingdom for the purposes of double taxation arrangements having effect at the time, and
 - (d) for that tax year, had made a claim for any available relief under section 6 of TIOPA 2010 (as required by subsection (6) of that section).
- (4) An individual's hypothetical net income for a tax year is, to the extent that it is not sterling, to be calculated by reference to the average exchange rate for the year ending on 31 March in the tax year concerned.

55E Procedure for elections under section 55D

- (1) An election under section 55D is to be made not more than 4 years after the end of the tax year to which it relates.
- (2) If the conditions in paragraphs (a) to (d) of section 55D(1) continue to be met, an election continues in force in each subsequent tax year unless –
 - (a) subsection (3) applies,
 - (b) the election is withdrawn, or
 - (c) it ceases to have effect under subsection (5).
- (3) Where an election is made after the end of the tax year to which it relates, the election has effect for the tax year to which it relates only (and accordingly does not continue in force for subsequent tax years under subsection (2)).
- (4) An election may be withdrawn only by a notice given by the individual by whom the election was made.
- (5) If an individual's spouse or civil partner does not obtain a tax reduction under section 55B in respect of a tax year in which an election is in force the election ceases to have effect for subsequent tax years; but this does not prevent an individual making a further election for the purposes of section 55B(2)(c) (whether or not in relation to the same marriage or civil partnership).
- (6) The withdrawal of an election under subsection (4) does not, except in the cases dealt with by subsection (7), have effect until the tax year after the one in which the notice is given.

- (7) The withdrawal of an election under subsection (4) has effect for the tax year in which the notice is given if –
 - (a) in a case where the individual concerned met the condition in section 55D(1)(a) by reason of being married, the marriage has come to an end in that tax year, or
 - (b) in a case where the individual concerned met the condition in section 55D(1)(a) by reason of being in a civil partnership, the civil partnership has come to an end in that tax year.
- (8) The reference in subsection (7)(a) to a marriage having come to an end is to have the same meaning as it has for the purposes of section 55C(7)(a) (see section 55C(8)).
- (9) The reference in subsection (7)(b) to a civil partnership having come to an end is to have the same meaning as it has for the purposes of section 55C(7)(b) (see section 55C(9)).
- (10) A notice under subsection (4) must –
 - (a) be given to an officer of Revenue and Customs, and
 - (b) must be in the form specified by the Commissioners for Her Majesty’s Revenue and Customs.

Supplementary

55F Limitation on number of claims and elections

- (1) An individual is not entitled to more than one tax reduction under section 55B for a tax year (regardless of whether the individual is a party to more than one marriage or civil partnership in the tax year).
- (2) An individual is not entitled to have more than one election for the purposes of section 55B which operates for a tax year (regardless of whether the individual is a party to more than one marriage or civil partnership in the tax year).”
- (3) In section 26 (tax reductions), in subsection (1)(a), after the entry relating to Chapter 3 of Part 3 insert –

“Chapter 3A of Part 3 of this Act (transferable tax allowance for married couples and civil partners),”.
- (4) In section 31 (total income: supplementary), in subsection (2), after “basic” insert “rate”.
- (5) In section 33 (overview of Part) –
 - (a) in subsection (3), after “partners” insert “where a party to the marriage or civil partnership is born before 6 April 1935”,
 - (b) after that subsection insert –

“(3A) Chapter 3A provides for a transferable tax allowance for married couples and civil partners.”,
 - (c) in subsection (4), in the opening words, for “and 3” substitute “, 3 and 3A”,
 - (d) in subsection (4)(a), after “Chapter 3” insert “or 3A”, and
 - (e) in subsection (4)(b), for “those allowances and tax reductions” substitute “the allowances under Chapter 2 and tax reductions under Chapter 3”.

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- (6) In the heading for Chapter 3 of Part 3 after “PARTNERS” insert “; PERSONS BORN BEFORE 6 APRIL 1935”.
 - (7) In section 56 (residence), in subsection (1)(b), after “Chapter 3” insert “or 3A”.
 - (8) In section 809G (claim for remittance basis: effect on allowances), in subsection (2) –
 - (a) omit the “or” following paragraph (b), and
 - (b) after paragraph (b) insert –
 - “(ba) any tax reduction under Chapter 3A of that Part (transferable tax allowance for married couples and civil partners), or”.
 - (9) The amendments made by this section have effect for the tax year 2015-16 and subsequent tax years.

EXPLANATORY NOTE

TAX RELIEF FOR MARRIED COUPLES AND CIVIL PARTNERS

SUMMARY

1. This measure introduces a transferable tax allowance for married couples and civil partners.

DETAILS OF THE CLAUSE

2. Clause X inserts sections 55A to 55F into Income Tax Act 2007 to provide for the transfer of income tax personal allowances for married couples and civil partners.

3. New section 55A introduces the new provisions and provides that the transferred allowance is given effect as a deduction from an individual's income tax liability.

4. New section 55B provides the conditions that an individual must meet to claim the transferred allowance and sets out how the tax reduction is to be calculated. Where an individual or their spouse is entitled to the married couple's allowance (available to spouses and civil partners born before 6 April 1935) they are not entitled to a tax reduction under this clause. From 2016-17, the amount of the transfer for a tax year is calculated by reference to a proportion of the personal allowance for those born after 5 April 1948.

5. New section 55C sets out the procedures for making a claim under new section 55B. A claim will have effect in subsequent tax years unless it is withdrawn. If the claim is made after the end of the tax year to which it relates, the claim only applies to that year. A claimant can only withdraw their claim with effect from the tax year following the tax year in which they make the withdrawal. There is an exception where during a tax year their marriage or civil partnership comes to an end. The exception allows the claimant spouse or civil partner to withdraw their claim with effect in the year they make the withdrawal.

6. New section 55D provides the conditions that an individual must meet to make an election to surrender entitlement to the transferred amount of their personal allowance. If an individual is entitled to a personal allowance but is not a UK resident for the tax year, they must have a hypothetical income that is less than the personal allowance they are entitled to.

7. New section 55E provides the procedures for an individual to make an election. The provisions mirror those in new section 55C that apply to claimants. In addition, an election becomes ineffective where the claimant does not obtain a tax reduction.

8. New section 55F provides that an individual cannot have more than one tax reduction or election for a tax year. It also makes consequential amendments flowing from the new provisions.

BACKGROUND NOTE

9. This measure introduces a transferable personal allowance for married couples and civil partners where neither spouse or civil partner is liable to income tax at the higher or additional rate. From 2015-16, a spouse or civil partner (a transferor) who meets the qualifying conditions will be able to elect to transfer a fixed amount of their personal allowance to their spouse or civil partner (the transferee). Where the transferee makes a claim to the transferred allowance their income tax liability is reduced by an amount calculated in accordance with new section 55B.

10. Individuals will be able to withdraw their election or claim with effect from the tax year following the tax year in which they notify HM Revenue & Customs. However, both the transferor and the transferee have the option to withdraw their election or claim with effect from the tax year that their marriage or civil partnership comes to a legal end.

11. If you have any questions about this change, or comments on the legislation, please contact Paul Thomas on 03000 586524 (email: paul.thomas@hmrc.gso.gov.uk).