Marriage allowance

General Features

01 July 2016

Inaccurate online guidance may be depriving some couples of this allowance.

The marriage allowance should allow spouses or civil partners to allocate 10% of their personal allowance to their spouse or partner, assuming that neither pays tax above the basic rate. For the current tax year, 2016/17, that could make a couple £220 better off, while a claim for 2015/16 could have yielded up to £212. Many potential claimants will be pensioners or families with young children. For ease of reading, we refer to spouses and civil partners using the generic term ‘partner’ to mean one of the couple.

Many couples have yet to make the claim, whether due to lack of awareness, uncertainty as to how it might be made, misleading guidance, or simple inertia. We have raised these points with HMRC and asked them to raise the profile of the allowance, including how the claim might be made.

Initially HMRC were only taking claims online, which acted as a deterrent for many people; but it is now possible to make a claim by telephone or even by letter. Our news item on this topic can be viewed on the LITRG website.

We are aware that the guidance on GOV.UK. Indeed, some of the telephone guidance offered by HMRC to the public and to members is incorrect.

HMRC accepts that the guidance on GOV.UK contains some inaccuracies but it says it is suitable for ‘the majority of taxpayers’. In addition there is an extremely basic calculator available online that, again, will work only for the most basic cases and may deter some claimants.

There are several requirements to be satisfied for a claim to be successful.

- The parties to the claim should be married or in a civil partnership for at least part of the tax year to which the claim relates (and be in that relationship at the

time the election is made);
- Neither partner should pay tax higher than at the basic rate;
- Neither partner should have claimed the married couple’s allowance;
- One partner must elect for a reduced personal allowance: the allowance that can be transferred is 10% of the basic personal allowance for the relevant tax year;
- The recipient must not be using the remittance basis;
- The recipient must satisfy the residence condition (as defined in ITA 2007 s 56).

As long as the conditions are satisfied, the recipient receives a ‘tax reduction’ representing the basic rate tax on the allowance transferred.

Married or in a civil partnership

In most cases it will be clear if this condition is satisfied. Entitlement to the marriage allowance continues when a couple separates, but ceases in the year after divorce. The election may be withdrawn earlier by the partner who originally made it. The section below covers what happens if one partner dies.

Residence requirement

As well as the recipient meeting the residence requirement, the transferring partner must also be entitled to a UK personal allowance. If they are UK resident their income is subject to the basic rate condition noted below. But if they are entitled to a UK personal allowance for the other reasons, broadly their income must be less than the UK personal allowance in order to claim the marriage allowance.

Basic rate taxpayer

The transferring partner must not have income taxable higher than the basic rate after the transfer of allowances; the recipient partner, meanwhile, must not be liable at a rate higher than the basic rate before the transfer of allowances. Bear in mind that gift aid donations and some pension contributions, for example, may increase the amount of income chargeable at the basic rate.

Death

If the recipient partner dies during the year when an election is in place, they still benefit from the tax reduction but the transferring partner does not suffer a reduction in their personal allowance. We are aware of cases in which HMRC is refusing to allow claims to marriage allowance when one of the spouses has died before the claim was made. This is because of the requirement for the couple to be married or in civil partnership when making the claim (s 55C(1)(a)(ii)), but this does seem harsh. We would be interested to hear from you if you have made such a claim, indicating whether or not it was accepted.

Issues with guidance on GOV.UK and the online calculator

Both of these resources assume that only couples where one partner has income below their personal allowance will be better off by electing to claim the marriage allowance. This is, of course, incorrect. If one partner has income in excess of their personal allowance, but part of it is set against income that has non-refundable tax credits attaching to it, they may well wish to transfer some of their allowance.

Although the transferring partner has a reduced personal allowance after marriage allowance is claimed, the recipient does not receive an increased personal allowance, but obtains a tax reduction against their tax liability. This point does not always seem to be picked up by HMRC officials.

Comments?

It would be helpful in making our case to HMRC and GOV.UK that changes need to be made if we could provide evidence of mistakes or gaps in the guidance. Members' comments should be emailed to litrg@ciot.org.uk.