Marriage allowance

Personal tax

01 October 2016

The ATT highlights issues experienced by members in claiming the transferable marriage allowance on behalf of clients through the self-assessment tax return.

During this summer's ATT conferences, many members noted problems claiming the transferable marriage allowance on the recipient's self-assessment tax return. This is due to the lack of a box to claim it, despite one appearing on the transferor's tax return. Now some SA302 calculations do not match the tax position as shown on the self-assessment statement for the recipient.

This has also been an issue raised through Working Together and, as far as we are aware, there are no plans to change the self-assessment tax return to include a box to claim the allowance on the recipient's tax return. According to HMRC, this is because it was always Parliament's intention that everything to do with the transfer should occur on the transferor's return.

Problems can occur if the recipient's tax return, claiming the allowance, is submitted before the transferor's has been submitted transferring the allowance. Therefore, if the recipient is due a tax refund after claiming the transferred allowance, he or she would need to wait until the transferor submits their return before their position can be correctly calculated and the refund issued.

However, if the marriage allowance transfer is done by a digital application on GOV.UK this stays in place until a change of circumstances is notified. Given that the transfer is already in place the recipient can see the allowance when filing their tax return.

We have also been made aware that there are some instances of HMRC staff not following the correct guidance on when the marriage allowance can be transferred. It appears that some HMRC helpline staff are advising taxpayers and agents that the transfer can only be made if one spouse's income is below the personal allowance.

This is not correct. The legislation for this allowance states clearly that neither spouse can be a higher rate taxpayer, but it does not say that one of them has to have income below the personal allowance. Indeed, HMRC guidance in the SA100 Tax Return notes, on page TRG10, states: ‘In most cases, if you both had income above your personal allowance you will not benefit from a transfer.’ However, there may be some cases when a transfer can still give a beneficial result. The legislation does not prevent the transfer being made in those cases even if neither spouse has income below the personal allowance.

Tell the Technical Team if you are experiencing any issues transferring and claiming this allowance on behalf of your clients by emailing either technical@ciot.org.uk or atttechnical@att.org.uk.