Update on the marriage allowance

Personal tax

01 April 2017

LITRG comments on issues that keep arising with marriage allowance claims

Following our article in July 2016's *Tax Adviser*, we have had many contacts from members raising different points. We appreciate this as it lets us know the potential extent of such issues. As before, for ease of reading, we refer below to spouses and civil partners using the generic term 'partner' to mean one of the couple. The conditions that need to be satisfied to make a valid claim were explored in our earlier article.

Claims made after the death of one of the partners

As noted in our earlier article, the legislation precludes a claim being made after the death of one of the partners on the basis that they are not married at the time the claim is made. This is something we are still raising with officials in the hope that a change might be made to the legislation. Where the partner died before October 2015, no facility was in place to allow such a claim to be made and we would be particularly interested in hearing from any member who has made a claim in those circumstances.

Claims made in self-assessment (SA) tax returns

We are aware that there appears to be an issue if the claim is made via the tax returns of the two partners rather than a claim being made online. Where the claim is made on the SA return it seems that there is no problem in reducing the personal allowance of the transferring partner, but the credit for the recipient partner is not being awarded. In some cases, claimants are being told that a separate online claim must be made.

Claims being refused where the partner with higher income is not a higher rate taxpayer due to basic rate band extension or where the transferring partner has income higher than the personal allowance

Some HMRC staff do not appear to know that as long as neither partner does not pay tax at a rate higher than basic rate, then the claim may be made. Care will be needed in 2017/18 when Scottish taxpayers will become liable to higher rate income tax on earned income before their counterparts in other regions of the UK.

Comments?

These matters have all been raised with HMRC and we continue to make representations. We welcome your comments by email to litrg@ciot.org.uk