

Draft Finance Bill clauses on transferable Tax Allowance for Married Couples and Civil Partners
Response from the Low Incomes Tax Reform Group ('LITRG')

1 About Us

- 1.1 The Low Incomes Tax Reform Group (LITRG) is an initiative of the Chartered Institute of Taxation (CIOT) to give a voice to the unrepresented. Since 1998 LITRG has been working to improve the policy and processes of the tax, tax credits and associated welfare systems for the benefit of those on low incomes. Everything we do is aimed at improving the tax and benefits experience of low income workers, pensioners, migrants, students, disabled people and carers.
- 1.2 LITRG works extensively with HM Revenue & Customs (HMRC) and other government departments, commenting on proposals and putting forward our own ideas for improving the system. Too often the tax and related welfare laws and administrative systems are not designed with the low-income user in mind and this often makes life difficult for those we try to help.
- 1.3 The CIOT is a charity and the leading professional body in the United Kingdom concerned solely with taxation. The CIOT's primary purpose is to promote education and study of the administration and practice of taxation. One of the key aims is to achieve a better, more efficient, tax system for all affected by it – taxpayers, advisers and the authorities.

2 Introduction

- 2.1 In general, we welcome the clause that allows the transfer of a small amount of a married couple's or civil partners' unused personal allowance between them. Clearly, any couple where one spouse or civil partner earns above the level of the personal allowance and the other earns substantially less than that amount will benefit from the measure, albeit by only a small amount. It will not benefit couples where both spouses or partners are part-time or low-paid workers so that neither pays tax at all.
- 2.2 As for the draft legislation itself, we fear the procedural burdens imposed by the draft legislation will be so disproportionate to the benefit potentially obtained as to discourage many eligible couples from claiming.
- 2.3 In the rest of this response, where we refer to spouses that should be taken to include civil partners; further, where we refer to marriage, that should also be taken to include civil partnerships.

3 The draft legislation

- 3.1 Our main point is one of horizontal equity. In order for the spouse to claim the allowance, they must not pay tax at a rate higher than the basic rate. While this distinction makes the effect of the legislation clear, it does mean that a taxpayer with £1 of income chargeable at the higher rate may lose out on £200 of tax relief. This must be one of the highest marginal rates of taxation introduced to the UK. We recommend that this 'cliff edge' approach be reconsidered. Many single earner couples in which the working spouse earns just above the basic rate limit, who can barely be described as well-to-do, will fall into this trap.
- 3.2 We note that the legislation is structured to enable a spouse to 'claim' the transferable part of an allowance once the other spouse has 'elected' to have their allowance so reduced. While we understand that independent taxation means that the tax affairs of spouses remain confidential, and that this reflects the current mechanism for transferring parts of the married couple's allowance, we consider that this is unnecessarily bureaucratic and recommend that the process be simplified as much as possible by enabling a joint election to be made on one piece of paper **or** online. We understand that the intention may have been to make this transfer available only by making elections/claims online, but this discriminates against individuals who are digitally excluded, many of whom will be in the very category who could otherwise benefit, albeit in a small way, from this transfer of allowances.
- 3.3 The individual making the claim must be married to their spouse for the whole or part of the tax year for which the claim is made AND at the time when the claim is made (S55B (2)(a)(ii)). We can see no reason why the couple must remain married at the time the claim is made; if the couple agree and the other formalities are adhered to, this seems an unnecessary restriction. Further, we would point out that married couple's allowance may be claimed for a period of four years after the end of the tax year for which it was due. There

is no similar provision requiring the couple to remain married to allow such a claim for a previous year to succeed.

- 3.4 We note that the claim continues year-on-year, once made in normal circumstances. This is to be welcomed. We can see no reason why a claim made after the end of a tax year should apply for that year alone. Again, this seems unnecessarily complex for couples who are on low incomes. We urge that this be reconsidered so that the claim can continue year-on-year.
- 3.5 Further we note that the claim stops if in one year the income of a spouse exceeds the basic rate threshold. We can see no good reason why such a claim should not automatically resurrect in the subsequent years. Many low income couples, without professional representation, would most likely find this difficult to understand. As HMRC will have details of the two spouses, this does not seem to be unnecessarily complex.
- 3.6 We note that this transfer of allowances is not possible where the married couple's allowance is also due. Given the age qualification required for claiming married couple's allowance, we consider that this restriction is needlessly ungenerous.
- 3.7 In proposed new S55F(2), we think the reference to S55B should be amended to S55D.
- 3.8 We are concerned as to how HMRC will monitor the position. For taxpayers within Self Assessment, this should be a reasonably easy matter; but for those where even one member of the couple is not in Self Assessment, is this going to lead to substantial additional work in verifying the marriage and linking the two taxpayer records?
- 3.9 Finally, we note that many couples who might make such transfers of allowances may be in receipt of means-tested state benefits, which are based on net income. To the extent, therefore, that net, after-tax income is increased by the tax saving generated by this relief, the benefit to the couple will be reduced from the maximum £200 level proposed by the interaction with the means-tested benefit. For example, a Universal Credit claimant whose benefit is progressively withdrawn at 65% of any increase in net income will only see the benefit of 35% of the £200 maximum tax saving – or £70 gain. Thus, a substantial amount of work may have been carried out by HMRC for comparatively little change in the couple's finances.

LITRG
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