

## Taxation, pensions and social security issues

For tax purposes civil partners are treated the same as married couples. As such, they are able to take advantage of the many tax planning opportunities previously only available to married couples. The following is a brief overview of some of the more popular tax planning ideas.

### Income tax (IT)

If you and your partner own property in unequal shares HM Revenue & Customs (HMRC) automatically treat any income from that property as being received equally between you. Whilst this may produce tax savings in certain situations be careful that it does not result in higher levels of IT being paid. If this happens you can always be assessed on your actual share of the income. This is done by completing and submitting form 17 to HMRC. The declaration is effective from the date the form is signed providing it is submitted to HMRC within 60 days of it being signed and dated.

### Capital Gains Tax (CGT)

Transfers between civil partners are deemed to take place at such a value that gives rise to neither a capital gain nor a capital loss. This basically means that civil partners can transfer assets between themselves without any CGT consequences.

If you and your partner each own a property or own more than one property together only one of these properties can be regarded as your home for CGT purposes. An election can be made to nominate which property should be treated as your principal private residence for tax purposes. The election has to be submitted to HMRC within certain time limits.

### Inheritance Tax (IHT)

Transfers between UK domiciled civil partners are exempt from IHT. Therefore, assets can be passed on death to the surviving partner free of IHT. This may result in the deceased partner's nil rate band (£312,000 for 2008/09) not being used. In situations where the surviving partner dies on or after 9 October 2007 their executors can also claim the unused nil rate band available from the first death. This means that two nil rate bands will be available on the surviving partner's death.



### Pensions

A surviving civil partner will be entitled to a pension based on the pension rights accrued by their deceased civil partner. The rules for civil partners mean that the surviving partner will benefit from the survivor's pension based on the contracted out of pension rights accrued by their deceased partner from 1988 to the date of retirement or date of death if this occurs before retirement. This rule applies to all contracted out occupational and personal pension schemes.

Similar rules will apply to public service pension schemes such as the NHS, local government, teachers, fire service, police and armed forces pension schemes.

## **State Pensions**

Civil partners also enjoy most of the state pension rights as husbands and widowers, and they will be treated the same as married couples after 2010 when the treatment of men and women will be equalised.

## **Social security**

### **Income related benefits**

The income of a civil partner will be taken into account when calculating entitlement to income related benefit. These include income support, job seekers allowance (income based), pension credit, housing benefits, and council tax benefit.

### **Bereavement benefits or widows benefit**

A surviving civil partner will be treated in the same way as widows and widowers for bereavement benefit.

### **Other benefits**

If a person receives benefits, such as, incapacity benefit, carers allowance, maternity allowance, severe disablement allowance, and unemployability supplement, and an adult dependency increase is payable for a spouse, they may be able to obtain extra for their civil partner.

### **Tax credits**

The income of a civil partner or a co-habiting same sex partner will be taken into account when calculating entitlement to the child working tax credits.

**For more information or advice please contact the Living Together team:**

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