Income tax treatment of married persons and civil partners

Part 44-01-01

This document should be read in conjunction with Parts 44 and 44A of the Taxes Consolidation Act 1997

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1. Introduction

This manual sets out the income tax treatment of married persons and civil partners.

The tax treatment of married persons is set out in Part 44 of the Taxes Consolidation Act 1997 (TCA).

The tax treatment of civil partners is set out in Part 44A TCA.

This manual also covers the income tax treatment applicable:

- in the year of the death of a spouse or civil partner;
- in the year of separation, divorce or dissolution of the partnership; and
- to maintenance payments.

2. Recognition of same sex marriage and civil partnership

2.1 Recognition of civil partnership

Following the passing of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010, the TCA was amended to provide for the tax treatment of civil partners.

Part 44A TCA applies to civil partnerships recognised in the State for the 2011 year of assessment and subsequent years.

Following the commencement of the Marriage Act 2015 on 16 November 2015, marriage is available in Ireland for same sex couples. From this date, couples can no longer serve notice of intention to enter into a civil partnership in the State.

Civil partnerships which were entered into prior to the commencement of the Marriage Act 2015 on 16 November 2015 will continue. The tax treatment of civil partners is not affected by this Act.

Individuals who entered a civil partnership in Ireland prior to the commencement of the Marriage Act 2015, but who did not advise Revenue of this change, can no longer (as of 1 January 2020) amend civil status assessments for tax years prior to 2016 with a view to seeking a repayment of tax, as such repayment is outside of the "four year rule" for the timely submission of repayment claims in section 865 TCA. The "year of registration of civil partnership" relief in 1031G TCA (see paragraph 3 below) therefore cannot be applied for any years prior to 2016.

However, if individuals have not previously advised Revenue of their status as civil partners, they can so advise Revenue and any necessary amendments can be made to their tax position for up to the four years preceding the year in which the claim is made. Any existing civil partners who have not changed their status will continue as civil partners. Their tax treatment is not affected by the Marriage Act 2015.

Same sex couples who entered into a registered partnership on or before 15 May 2016 in another jurisdiction will be recognised as civil partners in the State, provided the legal relationship is recognised in the State under a section 5 Order of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010.

Any new civil partnership entered into outside the State from 16 May 2016 is not recognised as a civil partnership in the State.

Links to statutory instruments listing foreign registered relationships which are treated as equivalent to a civil partnership under Irish law are available in the Appendix.

2.2 Marriage Act 2015

From 16 November 2015, following the enactment of the Marriage Act 2015, the provisions of the TCA apply to married couples regardless of whether the marriage is

between two persons of the opposite sex or of the same sex. These provisions are set out in Part 44 of the Act.

Where a marriage was contracted lawfully between two persons of the same sex in another jurisdiction, that marriage will be recognised automatically in the State as of 16 November 2015 or from the date of marriage, if later.

The website of the Department of Foreign Affairs provides details of foreign marriages recognised in the State.

Example 1
Isobel and Jen were legally married in Spain in the year 2010. They relocated to Galway in 2011 and registered for Irish tax. This was recognised as a civil partnership for Irish tax purposes up to 15 November 2015. With effect from 16 November 2015 they are recognised as a married couple in the State.

Example 2
Jaziel and João were registered as civil partners in the UK in the year 2010. They relocated to Athlone and registered for Irish tax on 1 July 2011. They got married in the State on 1 July 2017. They are recognised as civil partners for Irish tax purposes up to 30 June 2017 and as a married couple from 1 July 2017.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[…]

3. Year of marriage or registration of civil partnership

3.1 Year of marriage or registration relief

In the year of marriage or registration, both individuals will be taxed as single individuals for that year of assessment.

However, additional relief for the year of marriage or registration may be available on review, if the aggregate of the tax payable by the couple as single individuals for the year of assessment exceeds the tax that would have been payable if the couple had been jointly assessed to tax throughout the year (see paragraph 4.2 for further details on joint assessment). The relief is available under section 1020 TCA for married couples and section 1031G TCA for civil partners.

Tax Relief

Tax relief is calculated using the formula:

$$A \times \frac{B}{12}$$

Where:

A: is the amount by which the sum of the tax payable by the couple as single individuals exceeds the amount that would have been paid had the couple been jointly assessed for the whole of the tax year, and

B: is the number of calendar months during the year for which the couple has been married or in a civil partnership.

For the purposes of calculating the number of applicable months, part of a month is treated as a whole month.

Any overpayment of tax to be repaid will be divided between the couple based on the tax paid and payable by each individual as single individuals on their respective total incomes for the year of marriage or registration.

As noted in paragraph 1 above, no new civil partnerships can be entered in Ireland since the enactment of the Marriage Act 2015. Individuals who entered a civil partnership in Ireland prior to the commencement of the Marriage Act 2015, but who did not advise Revenue of this change, can no longer (as of 1 January 2020) amend civil status assessments for tax years prior to 2016, with a view to getting a repayment of tax, as such repayment is outside of the "four-year rule" on the timely submission of repayment claims in section 865 TCA. The "year of registration of civil partnership" relief in 1031G TCA therefore cannot be applied.

Example 3
A couple was married on 10 July 2024.

Tax payable as single individuals in 2024

Spouse 1		Spouse 2	
Income €48,000		Income €24,000	
€42,000 x 20%	€8,400	24,000 x 20%	€4,800
€6,000 x 40%	€2,400		
Total Tax	€10,800	Total Tax	€4,800
Tax Credits		Tax Credits	
Personal Tax Credit	€1,875	Personal Tax Credit	€1,875
PAYE Tax Credit	€1,875	PAYE Tax Credit	€1,875
Total Credits	€3,750	Total Credits	€3,750
Tax payable (€10,800 - €3,750)	€7,050	Tax payable (€4,800 - €3,750)	€1,050

Combined tax payable as single persons
(€7,050 + €1,050) €8,100

Tax payable under joint assessment in 2024

Income (€48,000 + €24,000)	€72,000
€72,000 x 20%	€14,400
Total	€14,400
Tax Credits	
Personal Tax Credit	€3,750
PAYE Tax Credit	€3,750
(€1,875 + €1,875)	
Total Credits	€7,500
Tax payable (€14,400 - €7,500)	€6,900

Amount Repayable to Couple

Tax payable as single individuals:	€8,100
Tax payable under joint assessment:	€6,900

Difference:	€1,200
Date of Marriage	10 July 2024
Repayment (A x B/12); €1,200 x 6/12*	€600

Repayment to Each Spouse

Spouse 1: €600 x €7,050/€8,100	€522
Spouse 2: €600 x €1,050/€8,100	€78
Total	€600

*A is the amount by which the tax payable as single individuals exceeds the amount payable under joint assessment;
B is the number of months in the year for which the couple was married. The couple married on 10 July, which is counted as a full month.

Note: PRSI and USC are ignored for the purpose of the examples.

The tax treatment illustrated above is the same for married couples and civil partners.

3.2 Entitlement to the single person child carer credit in the year of marriage or registration of civil partnership

Entitlement to the single person child carer credit (SPCCC) (which replaced the one parent family tax credit (OPFTC) from 1 January 2014) is determined by reference to the circumstances that apply on 1 January in a year of assessment.

If a couple married or entered into a civil partnership after 1 January in a year of assessment and, prior to that date, either individual was entitled to the SPCCC, the credit should not be withdrawn from that individual in her or his individual tax computation for the year of marriage.

However, when determining on review if any additional 'Year of Marriage or Registration' relief is due (see paragraph 2.1), the SPCCC should be excluded from the computation of tax payable under joint assessment. SPCCC is not available to an individual entitled to the joint personal tax credit under section 461(a) TCA.

The SPCCC is withdrawn for future years from either individual who had previously qualified for it.

4. Subsequent years - basis of assessment

4.1 Overview

The assessment options available to married couples and civil partners are:

- joint assessment (also known as aggregation) - see paragraph 4.2,
- separate assessment - see paragraph 4.3, and
- separate treatment (i.e., treated as single persons) - see paragraph 4.4.

A taxpayer may choose the option best suited to her or his circumstances.

4.2 Joint assessment

Under joint assessment a spouse or civil partner is chargeable to tax, not only on her or his own income, but also on the total income of her or his spouse or civil partner.

Joint assessment is the best option for most couples as it allows them to split their tax credits and standard rate band.

The rules for joint assessment for married couples are set out in sections 1017 and 1019 TCA. The rules for joint assessment for civil partners are set out in section 1031C TCA.

Revenue will automatically apply this basis of assessment once a taxpayer gives notification that she or he has married or entered a recognised civil partnership regardless of whether:

- one or both spouses or civil partners have taxable income; or
- either or both individuals are self-employed or taxed under the PAYE system.

However, this treatment by Revenue does not prevent a taxpayer from electing for separate assessment or separate treatment.

4.2.1 Assessable spouse or nominated civil partner

In the case of married persons, the spouse who is chargeable to tax on the income of both spouses is known as the “assessable spouse”.

In the case of civil partners, the partner who is chargeable to tax on the income of both civil partners is known as the “nominated civil partner”.

Revenue will automatically select the spouse or civil partner with the higher income to be the chargeable person for tax purposes. The person chargeable to tax continues in this role unless the couple jointly elect to nominate the other person. She or he is responsible for filing tax returns, if required to do so, and paying any tax due.

4.2.2 Nomination of assessable spouse or nominated civil partner

A couple may elect which of them is to be chargeable to tax. This election is made by married couples by completing an Assessable Spouse Election Form and by civil partners by completing a Nominated Civil Partner's Election Form.

The nomination must be made to the appropriate Revenue Branch **on or before 31 March in the tax year**.

Where the election is made before the commencement of the tax year (1 January) a couple can ensure that the correct tax credits and standard rate band are allocated to each spouse or civil partner from the commencement of the tax year.

Where such an election is made, the nominated person will continue to be the assessable spouse (and chargeable to tax) until:

- the couple jointly elects that the other spouse is to be chargeable to tax, or
- either spouse or civil partner opts for either Separate Assessment or Separate Treatment.

Where an e-Form 12 is submitted by a couple at the end of the tax year (for example, to claim health expenses) either spouse or civil partner may complete the form. If the spouse who completes the form is not currently chargeable to tax, she or he will become chargeable to tax for that tax year only.

Example 4
Roger and Anna married in 2019 and are jointly assessed. Following their marriage, Roger and Anna jointly elected for Roger to be chargeable to tax (i.e., the assessable spouse).

In 2023, Anna incurred significant medical bills as a result of an accident. Anna completed an e-Form 12 in April 2024 (for the year 2023) to claim tax relief on her medical expenses. Following the submission of this form, Anna became the assessable spouse for 2023.

Roger will continue to be the assessable spouse for tax years 2024 onwards unless:

- Anna submits an e-Form 12 for any future year,
- the couple jointly elects that Anna shall become the assessable spouse, or
- either spouse opts for either separate assessment or separate treatment.

4.2.3 Application of credits, reliefs and rate bands

In joint assessment cases the following rate bands and basic credits apply:

Standard rate band (section 15 TCA)
Where one spouse or civil partner is in receipt of income, the following amount is chargeable to income tax at the standard rate, currently 20%:

2019 to 2021	€44,300
2022	€45,800
2023	€49,000
2024	€51,000

Where both spouses or civil partners are in receipt of income, the standard rate band is increased **by** the following amount:

2019 to 2021	The lesser of €26,300 or the income of the lower-earning spouse or civil partner
2022	The lesser of €27,800 or the income of the lower-earning spouse or civil partner
2023	The lesser of €31,000 or the income of the lower-earning spouse or civil partner
2024	The lesser of €33,000 or the income of the lower-earning spouse or civil partner

This increase is non-transferrable.

Basic personal credit (section 461 TCA)
A basic personal tax credit of €3,750 is applicable to jointly assessed couples for the 2024 year of assessment and subsequent years. This replaces the individual basic personal tax credit of €1,875 that would have been available to each individual prior to their marriage or registration of their civil partnership.

Most reliefs and credits from income tax may be granted to the assessable spouse or nominated civil partner for the period they are jointly assessed. However, jointly assessed couples cannot transfer:

- the employee tax credit;
- the earned income tax credit;
- employment expenses; or
- the increase in the standard rate band[1].

[1] See section 472AB TCA for the earned income tax credit and sections 1024 and 1031I TCA for the other provisions.

Where a couple does not request tax credits and reliefs to be allocated in a particular way, Revenue will normally give all credits and reliefs (other than those listed above - the other spouse's or civil partner's employee tax credit, earned income tax credit, employment expenses and standard rate band increase) to the assessable spouse or civil partner.

Couples taxed under joint assessment can specify how they wish their tax credits and standard rate band to be allocated between them (other than employee tax credit, earned income tax credit, employment expenses and standard rate band increase) by completing a Form 12 online using myAccount.

Where changes are made, a new Tax Credit Certificate will issue within a few days with the amended details included.

If a refund is due at the end of the year, this will be repaid to each person in proportion to the amount of tax each has paid.

Example 5
Philip and Mark are jointly assessed. Philip's total income for 2024 is his employment income of €45,000. His civil partner Mark has investment income of €27,000. Tax payable under joint assessment in the year 2024 is as follows:

Total Income for Philip and Mark:	€72,000
€72,000 x 20%	€14,400
Total	€14,400
Less	
Personal Tax Credit	€3,750
PAYE Tax Credit	€1,875
Total Credits	€5,625
Tax payable (€14,400 - €5,625)	€8,775

4.3 Separate assessment

Under separate assessment, each spouse or civil partner is assessed on her or his own income with tax credits and reliefs divided between them in accordance with rules set out in legislation. For married couples, the provisions are set out in section 1024 TCA, and for civil partners the provisions are set out in section 1031I TCA.

If separately assessed, each spouse or civil partner is taxed as a single person during the tax year and they can complete either a single or a joint tax return. If they complete a joint tax return, it must include the income and expenses for both parties.

The following tax credits are divided equally:

- married or civil partner's personal tax credit
- age tax credit
- blind person's tax credit
- incapacitated child tax credit

Any unused tax credits and reliefs (other than the employee tax credit, earned income tax credit, employment expenses and standard rate band increase) can be transferred to the other spouse or civil partner. The tax credits may not be adjusted until after the end of the tax year.

Unused tax credits, reliefs and rate bands of one spouse or civil partner may be transferred in the same manner as in joint assessment cases. Separate assessment is also known as “separate assessment within joint assessment”. The aggregate of the tax payable by each spouse or civil partner under separate assessment cannot exceed the tax payable had the parties elected to be jointly assessed.

4.3.1 Election for separate assessment

An election for separate assessment must be made in writing, or through MyEnquiries, to Revenue. The application to Revenue can be made by either spouse or civil partner and must be made between 1 October of the preceding year and 31 March in the year that the couple wants separate assessment to apply.

An election to be assessed under separate treatment cannot be backdated and, once granted, it remains in place until it is withdrawn. Whichever spouse or civil partner initially makes the election must also be the one to withdraw it.

Example 6
As in Example 5, Philip's total income for 2024 is his employment income of €45,000 and his civil partner Mark has investment income of €27,000. However, here they have opted for separate assessment rather than joint assessment. Tax payable under separate assessment for the year 2024 is as follows:

Philip's Income	
€42,000 x 20%	€8,400
€3,000 x 40%	€1,200
Total Tax	€9,600
Less	
Personal Tax Credit	€1,875
PAYE Tax Credit	€1,875
Total Credits	€3,750
Tax payable (€9,600 - €3,750)	**€5,850**
Mark's Income	
€27,000 x 20%	€5,400
Less	
Personal Tax Credit	€1,875
Tax payable (€5,400 - €1,875)	**€3,525**
Combined Tax Payable (€5,850 + €3,525)	€9,375

Additional tax relief is available in the form of unused tax credits, reliefs and standard rate band. In this example, Mark has unutilised €15,000 of his standard rate tax band (€42,000 - €27,000), a portion of which he can transfer to Philip. This is however subject to a maximum transferrable amount of €9,000, which gives Philip a revised standard rate band of €51,000 (€42,000 + €9,000). Philip can then recalculate his liability as follows:

Philip's Income	
€45,000 x 20%	€9,000
Total	€9,000
Less	
Personal Tax Credit	€1,875
PAYE Tax Credit	€1,875
Total Credits	
	€3,750

Tax payable (€9,000 - €3,750)	€5,250

Mark can transfer the maximum amount allowable in respect of his unutilised standard rate band to Philip because the amount of Philip's income taxed at the standard rate band will remain less than the standard rate band available to the higher earner in a married couple, which is €51,000 for 2024.

Revised Combined Tax Payable

Philip	€5,250
Mark	€3,525
Total	€8,775

The net combined tax payable will be €8,775, the same amount of tax payable as under joint assessment (see Example 5).

Philip and Mark may transfer the rate bands by completing a Form 12 online using myAccount.

4.4 Separate treatment (assessed as single individuals)

Under separate treatment, also known as single assessment, each spouse or civil partner is assessed and charged to tax on her or his own income.

The rules for single assessment for married couples are set out in section 1016 TCA, and for civil partners in section 1031B TCA.

When separate treatment applies each spouse or civil partner:

- is taxed on her or his own income,
- receives tax credits and the standard rate band due to a single person,
- pays her or his own tax, and
- completes her or his own return of income form and claims her or his own tax credits.

The main difference between separate treatment and separate assessment is that, under separate treatment, one spouse's or civil partner's unused tax credits, reliefs and rate bands **cannot** be transferred to the other spouse or civil partner.

Separate treatment can result in a higher aggregate tax liability for the couple as compared with separate assessment or joint assessment, if one spouse or civil partner does not earn sufficient income to avail of all her or his personal tax credits, reliefs or rate bands.

The home carer's tax credit cannot be claimed in respect of a spouse or civil partner who cares for a dependent person and who might otherwise qualify for the relief if assessed jointly or under separate assessment.

4.4.1 Election for separate treatment

Separate treatment must be applied for in writing, or through MyEnquiries, to Revenue. Either spouse or civil partner can make the application and the election remains until withdrawn by the spouse or civil partner that made the election. An election for separate treatment must be made within the tax year (preferably at the beginning).

Example 7

As in Examples 5 and 6, Philip's total income for 2024 is employment income of €45,000 and his civil partner Mark has investment income of €27,000, but in this example they have elected for separate treatment. Tax payable under separate treatment in the year 2024 is as follows:

Philip's Income	
€42,000 x 20%	€8,400
€3,000 x 40%	€1,200
Total Tax	€9,600
Less	
Personal Tax Credit	€1,875
PAYE Tax Credit	€1,875
Total Credits	€3,750
Tax payable (€9,600 - €3,750)	**€5,850**
Mark's Income	
€27,000 x 20%	€5,400
Less	
Personal Tax Credit	€1,875
Tax payable (€5,400 - €1,875)	**€3,525**
Combined Tax Payable (€5,850 + €3,525)	€9,375

Compared to both joint assessment and separate assessment, Philip and Mark have a higher overall liability for 2024 under separate treatment – i.e., €9,375 as opposed to €8,775, a difference of €600.

5. Non-residence – aggregation of income where one or both spouses or civil partners is or are non-resident

Entitlement to the joint tax credit and standard rate bands is dependent upon the assessable spouse or nominated civil partner being chargeable to tax in accordance with the aggregation basis of assessment or joint assessment. For married couples the rules are set out in section 1017 TCA and for civil partners they are contained in 1031C TCA.

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

[…]

5.1 Tax treatment where only one spouse or civil partner is resident in the State and has income chargeable to tax in the State.

Where only one spouse or civil partner is resident in the State and in receipt of income chargeable to tax in the State, she or he-

- is chargeable on that income on the basis of separate treatment as a single person; and
- may be granted single person's basic tax credits and reliefs, subject to the practice outlined hereunder.

In cases where only one spouse or civil partner is resident in the State and has income chargeable to tax in the State, where Revenue is satisfied that the other spouse or civil partner has no income and the earnings of the person working in the State are the only source of income of the couple, aggregation basis may be applied (that is, the joint tax credit and the increased rate band may be given).

Aggregation may only be applied after the end of the tax year. The resident spouse or civil partner will need to complete a return of income, including a declaration of her or his spouse's or civil partner's income to receive the joint tax credit and the increased rate band.

If the non-resident spouse or civil partner has income, a measure of relief may be due where the Irish tax payable under separate treatment in respect of the income chargeable to Irish tax exceeds the tax that would have been payable in respect of that income, if the total income of the couple had been chargeable to tax on the basis of aggregation. The amount of relief due will depend on the amount of income of the non-resident spouse or civil partner.

To avail of this treatment, the couple should make a specific election for aggregation basis after the end of the tax year. The resident spouse or civil partner will need to complete a return of income, including a declaration of her or his spouse's or civil partner's income in order to receive the joint tax credit and the increased rate band.

Example 8
In 2024, Peter has income of €45,000 from an Irish employment. Peter's spouse Paula, who is non-resident, has foreign investment income of €10,000. Peter's income tax liability on the basis of separate treatment is:

Peter's Income for 2024: €45,000	
€42,000 x 20%	€8,400
€3,000 x 40%	€1,200
	€9,600
Less	
Personal Tax Credit	€1,875
PAYE Tax Credit	€1,875
Total Credits	€3,750
Tax payable for 2024	
(€9,600 - €3,750)	€5,850

At the start of 2025, Peter makes a claim for aggregation relief for tax year 2024 by completing an Income Tax Return.

Resident spouse (Peter's) Earnings	€45,000
Non-resident spouse's investment income	€10,000
	€55,000
Taxed as follows:	
€55,000 x 20%	€11,000
Tax	€11,000
Less	
Personal Tax Credit	€3,750
PAYE Tax Credit	€1,875
Total Credits	€5,625
Tax payable (€11,000 – €5,625)	€5,375
Tax attributable to Irish income €5,375 x (€45,000/€55,000)	€4,398
Additional relief due to the resident spouse (€5,850 - €4,398)	€1,452

Peter is entitled to additional relief of €1,452 after filing a return of income.

5.2 Cases where both spouses or civil partners are non-resident, but one spouse or civil partner has income chargeable to tax in the State

Where neither spouse or civil partner is resident in the State, but one spouse or civil partner is in receipt of income chargeable to tax in the State (for example, income from exercising an employment in the State or Irish rental income), she or he:

- is generally chargeable to Irish tax on that income on the basis of separate treatment as a single person; and
- may be granted the single person's basic tax credits and reliefs, or a proportion thereof, in accordance with the provisions of section 1032 TCA, which provides for tax credits and allowances to be granted to non-resident in certain circumstances see Tax and Duty Manual (TDM) Part 45-01-01.

Section 1032 TCA provides that Irish citizens wherever resident, or citizens or residents of another member state of the European Union or the United Kingdom, are entitled to full personal tax credits and reliefs in respect of any tax year in which 75% or more of their worldwide income is taxable in the State.

Where section 1032 TCA applies, any apportionment of the tax credits, reliefs, etc., should be carried out by reference to the world-wide income of the spouse or civil partner with the Irish source of income. The income of the other spouse or civil partner should not be taken into account.

Where the couple is non-resident but one spouse or civil partner has income chargeable to tax in the State, if Revenue is satisfied that the other spouse or civil partner has no income and the earnings of the spouse or civil partner working in the State is the only source of income, aggregation basis may be applied in the normal way; that is, the joint tax credit and the increased rate band should be applied.

If the other spouse or civil partner has income, a measure of relief may be due (depending on the level of that income) where the Irish tax payable under separate treatment in respect of the income chargeable to Irish tax exceeds the tax that would have been payable in respect of that income, if the total income of the couple had been chargeable to tax on the basis of aggregation.

To avail of this treatment, the couple should make a specific election for aggregation basis and the spouse or civil partner with income chargeable to Irish tax should be requested to give details of the couple's total income. This means the income of both parties including any income not chargeable to Irish tax. In cases of difficulty, a separate return should be requested from each spouse or civil partner.

Example 9
For 2024, both spouses are resident in the United Kingdom. One spouse has income of €10,000 from an Irish non-proprietary directorship and €22,000 from a UK employment. The other spouse has no income.

The spouse's income tax liability on the basis of separate treatment and relief under section 1032 TCA is:

Tax liability without aggregation

Income liable to Irish tax	Irish directorship Income €10,000
€10,000 x 20%	€2,000
Less	
Personal credit	€586
(€1,875 x €10,000/€32,000)	
PAYE credit	€586
(€1,875 x €10,000/€32,000)	
Total Credits	€1,172
Tax payable	
(€2,000 - €1,172)	€828

Tax liability on aggregation basis

Worldwide Income	
Irish directorship	€10,000
UK employment	€22,000
Total Income	€32,000
€32,000 x 20%	€6,400
Less	
Personal Tax Credit	€3,750
PAYE Tax Credit	€1,875
Total Credits	€5,625
Tax chargeable	€775
(€6,400 - €5,625)	
Tax attributable to Irish income)	

(€775 x €10,000/€32,000)	€242
Additional relief due (€828 - €242)	€586

Where the operation of section 1032 TCA (applied on the basis of a single treatment) produces a lower liability, that liability should not be increased by reference to these procedures. This means that, using the example above, if the tax attributable to the Irish income in the joint assessment computation exceeded the tax on the Irish directorship as shown in the first computation(€828), the tax due should not be increased by the excess.

Normally, the tax attributable to the Irish income will be greater only in circumstances where part of the person's income is chargeable to tax at the higher rate.

6. Widowed persons or surviving civil partners

6.1 Tax credits in year of death of spouse or civil partner

The tax treatment in the year of death will depend on how the couple was assessed prior to the death of the spouse or civil partner.

6.1.1 Joint assessment

Where the assessable spouse or nominated civil partner dies, the surviving spouse or civil partner will be entitled to the increased basic personal tax credit in accordance with section 461(b) TCA. She or he will be assessed on her or his income for the period from the date of death to the end of the year.

In the case of the death of the non-assessable spouse or non-nominated civil partner, the surviving spouse or civil partner continues to be entitled to the married person's tax credit and appropriate standard rate band for the full year. She or he will be assessed on her or his own income for the full tax year, plus the late spouse or civil partner's income from 1 January to the date of death.

Example 10
Kris and Ashley are taxed under joint assessment. Kris is the nominated civil partner. Ashley dies during 2024. Kris is taxed as follows:

Year	Rate Band	Personal credits	Taxable income
2023	€49,000 @ 20% plus increase up to €31,000. Balance taxed at @ 40%	Married €3,550	Joint income from 1 January to 31 December 2023
2024 (year of death)	€51,000 @ 20% plus increase up to €33,000. Balance taxed @ 40%	Married €3,750	Own income from 1 January to 31 December 2024 Ashley's income from 1 January 2024 to date of death in 2024

Example 11
Kris and Ashley are taxed under joint assessment. Kris is the nominated civil partner. Kris dies during 2024. Ashley is taxed as follows:

Year	Rate Band	Personal credits	Taxable income
2024 (year of death)	€42,000 @ 20% Balance @ 40%	Married (year of death) €3,750	Own income from date of Kris's death to 31 December 2024

6.1.2 Separate treatment

If the couple was assessed on the basis of separate treatment prior to the date of death, the only alteration in the tax credits and rate bands by reason of the death of

either spouse or civil partner is that the surviving spouse or civil partner is entitled to the widowed person's or surviving civil partner's tax credit of €3,750[2], as set out in section 461(b) TCA in substitution for the single person's tax credit for the year of death.

6.1.3 Separate assessment

In the case of the death of a spouse or civil partner where separate assessment is applicable, the status of the couple should be examined to determine which person would have been the assessable spouse or civil partner under joint assessment – that is, if separate assessment had not been applied. This is to ensure that the tax payable in the year under joint assessment is the same as tax payable under separate assessment.

The person who would have been the assessable spouse or nominated civil partner is:

- the person who was the assessable spouse or nominated civil partner prior to the election for separate assessment being made; or
- in the absence of a prior election, the spouse or civil partner with the higher income.

If the person who died would have been the non-assessable spouse or non-nominated civil partner:

- The deceased spouse or civil partner is assessable on her or his income from 1 January to the date of death and is entitled to the single person's basic tax credit and single rate band. Unused allowances, reliefs and rate bands are transferrable (in accordance with the rules of joint assessment generally) to the surviving spouse or civil partner.
- The surviving spouse or civil partner is assessable on her or his income for the full year and is entitled to the single person's basic tax credit and single rate band as well as the unused allowances, reliefs and rate bands of the deceased spouse or civil partner.

If the spouse or civil partner who died would have been the assessable spouse or nominated civil partner:

- The deceased spouse or civil partner is assessable on her or his income from 1 January to the date of death and is entitled to the single person's basic tax credit and single rate band. Unused allowances, reliefs and rate bands are transferrable to the surviving spouse or civil partner for the pre-death period.
- The surviving spouse or civil partner:
    - in the pre-death period, is assessable on her or his income from 1 January until the date of death and is entitled to the single person's basic tax credit and single rate band as well as the unused allowances, reliefs and rate bands of the deceased spouse or civil partner;
    - in the post death period, is assessable on her or his income from the date of death to 31 December and is entitled to a new single person's

[2] €3,550 for 2023, €3,400 for 2022 and €3,300 for 2019 to 2021.

rate band and increased basic personal tax credit of €3,750 for this period.

6.1.4 Age exemption and marginal relief

Even though a widowed spouse or surviving civil partner may be in receipt of a higher personal tax credit, the exemption limit applicable to that person for the purposes of section 188 TCA, is the limit applicable to a single person. This is the case because, although the personal tax credit she or he receives is the same amount as that allowed to a married person or a civil partner, the credit is granted under paragraph (b) rather than paragraph (a) of section 461 TCA.

In joint assessment cases, where the non-assessable spouse or non-nominated civil partner dies, the surviving spouse or civil partner will retain her or his higher exemption limit for the year of bereavement as she or he remains entitled to the joint personal tax credit under section 461(a) TCA in that year.

See TDM Part 07-01-18 – Tax Exemption and Marginal Relief – for further information.

6.2 Single person child carer credit

In the year of bereavement, the single person child carer credit (SPCCC) cannot be granted to a surviving spouse or civil partner with children. This is because the SPCCC cannot be claimed by someone who is either:

- claiming an increased personal tax credit under section 461(b) TCA; or
- retaining the joint personal tax credit

in the year of bereavement.

In the years following the year of bereavement, the credit may be available where the criteria are met (see TDM Part 15-01-41 – Single person child carer credit - for further information). The individual may be able to claim both

- the SPCCC and
- the Widowed Parent Tax Credit (section 463 TCA) - (see paragraph 6.4 below).

6.3 Additional tax credit for certain widowed persons or surviving civil partners

Following the year of bereavement, a widowed person or a surviving civil partner who does not qualify for the SPCCC as set out in paragraph 6.2) is entitled to the following basic personal tax credits:

- the single person basic tax credit under section 461(c) TCA, currently €1,875;
- an additional credit under section 461A TCA, currently €540.

This additional €540 credit is not available to a widowed person or a surviving civil partner who re-marries and was not previously available to anyone who entered a new civil partnership.

6.4 Widowed parent tax credit

The provisions covering the tax credit for a widowed person or a surviving civil partner who has a qualifying child resident with him or her are contained in section 463 TCA.

To qualify for the credit for a tax year, the claimant must not have married (or previously entered into a civil partnership) before the commencement of the year. However, the credit is available to a claimant who marries during the year. The claimant must also have a qualifying child resident with her or him for all or part of the year.

The meaning of qualifying child for the purposes of this credit is the same as that for the SPCCC (see TDM Part 15-01-41 – Single person child carer credit - for further information).

This credit is in addition to the single person basic tax credit under section 461(c) TCA, currently €1,875. The credit is not due in the year of bereavement for details of personal credits due in year of bereavement see paragraph 6.1 above. The single person child carer credit (SPCCC) may also be claimed in addition to this credit (see paragraph 6.2 above). The credit is not due for any year where a claimant is cohabitating.

Amount of the tax credit

The tax credit is due for each of the five years following the year of bereavement as follows:

First Year:	€3,600
Second year:	€3,150
Third year:	€2,700
Fourth year	€2,250
Fifth year	€1,800

Example 12
For a taxpayer bereaved in 2024 the widowed parent tax credit is:

2025: €3,600
2026: €3,150
2027: €2,700
2028: €2,250
2029: €1,800

7. Separation, divorce or dissolution

7.1 Income tax in year of separation, divorce or dissolution

The tax treatment in the year of separation, divorce or dissolution will depend on how the couple was assessed prior to the separation, divorce or dissolution.

7.1.1 Joint assessment

The assessable spouse or nominated civil partner continues to be entitled to the married person's tax credit and appropriate standard rate band for the full year. She or he will be assessed on her or his own income for the full tax year, plus the former spouse or civil partner's income from 1 January to the date of separation.

The non-assessable spouse or non-nominated civil partner will be assessed on her or his income for the period from the date of separation to the following 31 December. She or he will be entitled to a single person's basic tax credit under section 461(c) TCA (currently €1,875) and the single person child carer credit (SPCCC) - (see TDM Part 15-01-41 single person child carer credit for further information) where the qualifying criteria are met.

7.1.2 Separate assessment

The rules for jointly assessed couples in the year of separation are similarly applied to separately assessed couples.

In the case of separation where separate assessment is applied, the status of the couple should be examined to determine which person would have been the assessable spouse or nominated civil partner under joint assessment, that is, if separate assessment had not been claimed. This is to ensure that the tax payable in the year under joint assessment is the same as tax payable under separate assessment.

The person who would have been the assessable spouse or nominated civil partner is:

- the person who was the assessable spouse or nominated civil partner prior to the election for separate assessment being made, or
- in the absence of a prior election, the spouse or civil partner with the higher income.

The assessable spouse or civil partner is assessable on her or his income from 1 January to the date of separation and is entitled to the single person's basic tax credit and single rate band. Unused allowances, reliefs and rate bands are transferrable to the non-assessable spouse or civil partner for the pre-separation period.

Before separation, the non-assessable spouse or civil partner is assessable on her or his income from 1 January until the date of separation and is entitled to the single person's basic tax credit and single rate band and any unused allowances, reliefs and rate bands are transferrable to the assessable spouse or civil partner for the pre-separation period.

After separation, the non-assessable spouse or civil partner is assessable on her or his income from the date of separation to 31 December and is entitled to a new single person's basic tax credit and single rate band for this period.

7.1.3 Separate treatment (single assessment)

If the couple was assessed on the basis of separate treatment prior to the date of separation, there should be no change in their tax treatment in the year of separation, except that the single person child carer credit (SPCCC) may be available where the qualifying criteria have been met by either spouse or civil partner (see TDM Part 15-01-41 single person child carer credit, for further information).

7.2 Maintenance of spouses or civil partners living apart

Special income tax rules apply to:

- couples who are living apart;
- couples who have divorced or dissolved their civil partnership; and
- certain cohabitants who have ended their relationship

and who have entered legally enforceable maintenance arrangements.

For married couples, the relevant provisions are sections 1025 and 1026 TCA; and for civil partners, the provisions are sections 1031J and 1031K TCA.

The rules for maintenance payments between cohabitants are set out in TDM Part 44B-01-01 - Tax Treatment of Former Cohabitants.

"Maintenance arrangement" means –

- an order of a court, rule of court, deed of separation, trust, covenant, agreement, arrangement or any other act giving rise to a legally enforceable obligation and made or done in consideration or in consequence of —
    - the dissolution or annulment of a marriage; or
    - such separation of the parties to a marriage as is referred to in section 1015(2) TCA (that is, legally separated or living apart permanently);
- an order of a court, under Part 5 or 12 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010; and
- a trust, covenant, agreement, arrangement or any other act giving rise to a legally enforceable obligation and made or done in consideration or in consequence of —
    - the dissolution or annulment of a civil partnership, or
    - living separately in the circumstances referred to in section 1031A(2) TCA.

"Payment" means a payment or part of a payment, as the case may be.

Where legally enforceable maintenance payments are payable by one spouse or civil partner to her or his separated spouse or civil partner:

- the paying spouse or civil partner makes the payments gross;
- the paying spouse or civil partner is allowed, in computing her or his total income, a deduction for maintenance payments made in the year of assessment for the benefit of the other spouse (see below - tax relief is confined to the amount referrable to the spouse - tax relief is not available in relation to payments for the benefit of children);
- the recipient is taxable under Case IV, Schedule D, in respect of such maintenance payments received; and
- both are taxed as single persons.

The same treatment will apply in respect of couples whose marriage or partnership have been dissolved or annulled and to couples who are living apart permanently provided the payments are:

1) made at a time when the couple is living apart;
2) legally enforceable; and
3) annual or periodic

and the agreement under which the payments are being made was entered into on or after 8 June 1983.

Tax relief may be granted in respect of direct and indirect payments; for example, medical insurance or mortgage payments paid by the former spouse or civil partner may be treated as maintenance payments.

Only payments made for the benefit of the other spouse or civil partner will qualify for tax relief. Where a maintenance arrangement provides for the payment for the benefit of a **child** of specified sums or of amounts which are quantifiable under the terms of the maintenance arrangement –

(a) the payments are to be made gross, without deduction of tax,
(b) the payer is not allowed a deduction for such payments, nor are they to be treated as income of the recipient,
(c) the payment does not count as income of the child, and
(d) the payer will be regarded as having contributed to the extent of such payments, to the maintenance of the child for the purposes of any claim to incapacitated child allowance or part thereof under section 465(6) TCA.

Supporting documentation may be requested by Revenue to confirm the correct tax treatment.

7.3 Foreign divorce or dissolution

Maintenance payments made under a settlement agreement arising from a divorce obtained outside the State will qualify for relief, provided the divorce is recognised in this State and the maintenance payments have been paid in accordance with the agreement.

7.4 Aggregation basis ('joint assessment for separated couples')

There is an alternative basis of assessment – aggregation - for couples who have a legally enforceable maintenance arrangement under section 1025 or 1031J TCA.

This basis of assessment is set out in section 1026 TCA for separated or former married couples and in section 1031K TCA for separated or former civil partners.

This alternative basis of assessment applies to all couples living apart in circumstances that are likely to be permanent and couples whose marriage or civil partnership has been dissolved under any of the following:

- section 5 of the Family Law (Divorce) Act 1996;
- section 110 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010, or deemed to be such a dissolution under Section 5(4) of that Act; and
- the law of a country or jurisdiction other than the State, being a divorce or dissolution that is entitled to be recognised as valid in the State.

This basis of assessment will apply provided a joint application, signed by both parties, is received and

- both parties are resident in the State for tax purposes for the year of assessment, and
- neither party has entered into another marriage (or previously, civil partnership).

Where an election is made by both parties for the aggregation basis of assessment, the maintenance payments are ignored for tax purposes; thus:

- the payer does not get a deduction for the maintenance payments; and
- the recipient is not taxable on the maintenance payment.

Where both individuals have income, the couple will be assessed as if an application for separate assessment had been made under section 1023 or 1031H TCA as appropriate.

7.5 Charging of recipient under Case IV in respect of maintenance payments

Where the recipient of a maintenance payment is in employment and the aggregate of the maintenance amount and any other non-PAYE income for the year of assessment is below the threshold for a "chargeable person" (€5,000 for 2016 and subsequent years of assessment- s. 959B TCA) the Case IV liability may be brought to account by way of restriction of tax credits.

7.6 Voluntary Maintenance Arrangements

Where a maintenance arrangement does not fall within the definition set out in section 7.2 above, it will be regarded and treated as a voluntary maintenance arrangement, and thus disregarded for income tax purposes. In such cases, the paying spouse is not entitled to claim a deduction in respect of the amounts paid and the receiving spouse is not assessed to tax on the payments received.

However, where spouses or civil partners have entered into a voluntary maintenance arrangement, the paying spouse may be entitled to a basic personal tax credit of €3,750 and the receiving spouse may also be entitled to a basic personal tax credit of €1,875 in the same year of assessment.

Importantly, this is subject to a number of requirements.

In relation to the paying spouse or civil partner, he or she must prove that:

- his or her spouse or civil partner is not living with them; and
- the maintenance payments being made are sufficient to wholly or mainly maintain that spouse or civil partner

in order to be entitled to a basic personal tax credit of €3,750.

In considering if the maintenance payments being made are sufficient to wholly or mainly maintain the receiving spouse or civil partner, due regard must be had to any other sources of income that spouse or civil partner has in the year of assessment.

In relation to the receiving spouse or civil partner, he or she will be entitled to a basic personal tax credit of €1,875 provided that he or she does not remarry or enter into a new civil partnership.

Appendix - Foreign relationships recognised as civil partnerships in the State

Lists of legal relationships recognised as civil partnerships in the State are included in the following statutory instruments:

- S.I. No. 649 of 2010
- S.I. No. 642 of 2011
- S.I. No. 505 of 2012
- S.I. No. 490 of 2013
- S.I. No. 212 of 2014
- S.I. No. 132 of 2016

If any relationship listed in the above instruments is a marriage that was contracted lawfully between two persons of the same sex in another jurisdiction, that marriage will be recognised automatically in Ireland as a marriage from 16 November 2015, or from the date of marriage, if later.