

# **Taxation and Civil Partnerships**

Frequently Asked Questions

16 January 2012

**These FAQs have been updated on 16 January 2012. The changes from the previous version (published in August 2011) are listed hereunder.**

Appendix A has also been updated to include newly recognised Foreign civil partnership relationships [SI No 642 of 2011]

**Revised FAQs**

<b>FAQ</b>	<b>Subject</b>	<b>Change</b>
3.21	Can I claim a deduction in respect of maintenance payments made to my former civil partner?	Text amended to include reference to Irish Court Orders.
7.2	What are the Inheritance tax implications for children in a civil partnership?	Updated to reflect thresholds for Gifts and Inheritances taken on or after 7 December 2011
8.2	What are the tax implications for children of a civil partner who take a gift of property, money or other assets from either individual in the civil partnership?	Updated to reflect thresholds for Gifts and Inheritances taken on or after 7 December 2011

**New FAQs**

<b>FAQ</b>	<b>Subject</b>	
3.23	What is the position regarding maintenance payments made under a Foreign Court Order?	New FAQ
8.3	Where a civil partnership is dissolved in a foreign jurisdiction, are gifts, inheritances or transfer of assets made between former civil partners under a Foreign Court Order exempt from Capital Acquisition Tax, Capital Gains Tax or Stamp Duty?	New FAQ

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# **1. Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010**

## **1.1 What is the CPCROC Act 2010?**

The Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 (CPCROC Act) was enacted on 19 July 2010. The Act establishes the following:

- A civil partnership registration scheme for same-sex couples which confers a range of rights, obligations and protections consequent on registration. It also sets out the manner in which civil partnerships may be dissolved and with what conditions,  
**and**
- a redress scheme for long-term opposite-sex and same sex cohabiting couples who are not married or registered in a civil partnership.

**This FAQs focus on taxation and civil partnerships. There is a separate FAQ covering ‘Taxation and the Redress Scheme for Cohabiting Couples’.**

## **1.2 When did the CPCROC Act come into effect?**

The CPCROC Act came into effect on 1 January 2011. Three months notice of civil partnership registration is required.

## **1.3 When will taxation changes be introduced?**

Legislative changes required to give effect to the taxation changes arising from the Act are included in the Finance (No 3) Act 2011, [www.oireachtas.ie](http://www.oireachtas.ie).

Similar tax provisions that apply to married couples, in year of marriage and subsequent years are now available to civil partners.

Revenue is committed to ensuring that individuals in a civil partnership are aware of their entitlements arising from the tax legislation changes. All relevant forms, information leaflets and guides are being revised to reflect the new civil partnership status. A number of these are available on our website.

## **1.4 Where can I find the detail of the CPCROC Act?**

The Act is available on the Oireachtas website: [www.oireachtas.ie/acts/2010](http://www.oireachtas.ie/acts/2010).

## **1.5 Where can I find more information regarding Civil Registrars authorised to register civil partnerships?**

The HSE’s Civil Registration Service can be contacted regarding the registration of civil partnerships. A list of their contact detail can be accessed from the link below:

[www.hse.ie/CivilRegistrationOffices](http://www.hse.ie/CivilRegistrationOffices).

The General Registrar has published an information booklet on entering a civil partnership. [http://www.groireland.ie/civil\\_partnership](http://www.groireland.ie/civil_partnership).

**1.6 Can opposite sex partners opt to register as civil partners rather than to marry?**

No. Civil partnership registration is confined to couples of the same sex.

**1.7 My same-sex partner and I have a foreign registered relationship, will this be recognised in Ireland?**

The CPCROC Act allows the Minister for Justice and Equality to designate certain classes of legal relationships between same sex couples recognised by a foreign state (i.e. marriage, civil union, civil partnership), requiring that such relationships be treated as civil partnerships under Irish law.

For an up to date list of these relationships type, see Appendix A or visit the website of the Department of Justice and Equality [justice.ie/en/JELR/SI-649](http://justice.ie/en/JELR/SI-649). Foreign registered same sex relationships, referred to in the list, do not need to be re-registered in Ireland.

Existing foreign registered relationships from this list are recognised in Ireland from 13 January 2011.

**1.8 Will Revenue recognise a foreign registered same sex partnership?**

For the purposes of taxation Revenue will recognise those registered foreign relationships recognised by the Minister for Justice and Equality as civil partnerships.

**1.9 If my particular foreign registered relationship same sex partnership is not recognised by the Minister for Justice and Equality will my partner and I be entitled to be treated as jointly assessed?**

No. Only those recognised by the Minister for Justice and Equality will be recognised for appropriate tax treatment. Queries regarding recognition of foreign registered relationships can be referred to the Department of Justice and Equality. [www.justice.ie](http://www.justice.ie)

## **2. CPCROC Act 2010, and long-term opposite-sex and same sex cohabiting couples who are not married or in a civil partnership.**

### **2.1 I am not in a civil partnership but am living with my partner. Can I be treated for income tax purposes in the same way as couples in a marriage or civil partnership are treated?**

No, you are assessed as a single individual. Joint or separate assessment can only be claimed if you are married or in a civil partnership.

### **2.2 Am I entitled to claim joint assessment if I am living with my opposite sex partner?**

As civil partnership registration is confined to couples of the same sex you do not qualify for joint assessment and are assessed as single individuals.

## **3. Taxation of Civil Partners**

### **3.1 Do I need to inform Revenue that I am in a civil partnership?**

Once your civil partnership is registered you can advise your local Revenue office of the date of registration of your civil partnership and quote your own PPSN and your civil partner's PPSN, or complete the Nominated Civil Partner Election Form. [Leaflet IT2 Guide to Taxation](#)

### **3.2 What information or documentation do I need to supply to Revenue if I am in a recognised foreign relationship?**

Recognised foreign registered relationships are treated as Irish civil partnerships. You should advise your local Revenue office of the date, jurisdiction and title of recognised foreign registered relationship and quote your own PPSN and your civil partner's PPSN.

### **3.3 How are we treated for tax purposes after we register our civil partnership?**

The taxation of civil partners is similar to that of married couples. The same reliefs and exemptions as those of married couples apply. In the year of registration of the civil partnership, both partners will continue to be taxed as two single individuals. An additional year of registration relief may be due and dealt with on a review basis after the end of the tax year (similar to year of marriage relief). In subsequent years the same options available to married couples will apply, i.e. joint assessment, separate assessment or separate treatment.

### **3.4 How are recognised foreign registered same sex partnerships treated for tax purposes in 2011, where the foreign registration took place in an earlier year?**

Regardless of when a recognised foreign civil partnership took place both civil partners will be assessed as two single individuals in 2011. At the end of the year you can contact

your local Revenue office and request a review of your Tax liability. In subsequent years, the same options available to married couples will apply, i.e. joint assessment, separate assessment or separate treatment.

### **3.5 Am I automatically Jointly Assessed or do I have to apply for Joint Assessment?**

As individuals in a civil partnership you may choose the method of taxation which is best suited to your circumstances. In the absence of a specific election, joint assessment will apply to the civil partnership and once a choice has been made it will apply for future years unless an application is made for separate treatment or separate assessment, within the same time limits as for a married couple.

The effect of joint assessment is that one civil partner becomes the nominated civil partner, (i.e. the civil partner assessable on both incomes under joint assessment) having been nominated as such when electing to be jointly assessed, or deemed so by Revenue, in the absence of a nomination, and the other is the non-nominated (or ‘other’) civil partner. Either civil partner may be nominated and in the absence of a nomination Revenue will deem the civil partner with the highest income as the nominated civil partner.

### **3.6 Do I have the same Revenue office as my spouse of civil partner?**

If you are a PAYE employee, your tax affairs are dealt with in the region where you live. If you are self-employed, your place of business dictates the region where your tax affairs are dealt with.

Any Revenue correspondence that you receive will show the contact address of your local Revenue office or if you visit [www.revenue.ie](http://www.revenue.ie) and enter your PPS number into our contact locator, the name, address and contact details of your local Revenue office will be displayed.

### **3.7 Can I continue to be treated as a single person?**

Yes, civil partners can continue to be treated as single individuals if one of them gives notice before the end of the year of assessment that they do not want to be jointly assessed for that year.

### **3.8 Can I share my tax credits and standard rate band in the same way as married couples?**

Once you are assessed under joint assessment you can specify how you wish to have your tax credits and standard rate band allocated between you and your civil partner. The extended rate band is available to one civil partner only. If you are assessed under separate assessment any transferable unused credits or standard rate band can be transferred on a review basis.

### **3.9 What tax credits and reliefs can I claim?**

A list of tax credits, reliefs and rates can be accessed from the following link: Leaflet IT1 [Tax credits, reliefs & rates.](#)

**3.10 Can I claim Home Carers Credit?**

You can claim Home Carers Credit if you are entitled to it and are assessed under joint assessment.

**3.11 Am I entitled to claim health expenses in respect of my partner?**

Yes, you can claim tax relief in respect of the cost of certain health expenses paid by you or your civil partner.

**3.12 I am currently in receipt of One Parent Credit. Will my entitlement change after the registration of my civil partnership?**

Your entitlement to one parent credit continues for the year in which your civil partnership is registered only. This same entitlement applies to married couples in the year of marriage.

**3.13 Can I claim Age Tax Credit if I am aged over 65?**

The Age Tax Credit is available if either you or your civil partner is aged 65 or over, (this excludes separate treatment where each civil partner must be aged 65 or over for each to avail of the credit), **or** when either of you, reach 65 years of age at any time during the year.

**3.14 Are we exempt from income tax if our joint income is below the set limits?**

If you or your civil partner is aged 65 or over and your total income from all sources is less than the relevant exemption limit you will not pay any income tax.

**3.15 If our joint income is slightly above the exemption limit, do we qualify for any relief?**

If your total joint income is slightly over the exemption limit, you may qualify for marginal relief. This relief is granted where it is more beneficial to you than your tax credits.

**3.16 Are we exempt from DIRT if we are over 65?**

If either you or your civil partner is aged 65 or over and your joint total income for the year is below the relevant exemption limits you can apply directly to your financial institution to have the interest paid without deduction of DIRT.

### **3.17 How am I assessed for income tax purposes if my civil partner dies?**

- If you are the "nominated civil partner" under joint assessment, you will continue to receive the civil partner's tax credit and rate band for the year of bereavement. You will be taxable on your own income for the full tax year in which your civil partner dies, plus your late civil partner's income from 1 January to the date of death.
- If you are not the "nominated civil partner" under joint assessment, you will be taxable in your own right from the date of death of your civil partner and will qualify for the surviving civil partner's tax credit in the year of bereavement in respect of any income arising from the date of death of your civil partner until the end of the tax year.
- In subsequent years, you will be entitled to the surviving civil partner's tax credit and depending on your circumstances, the surviving civil partner's (without dependent children) or the surviving civil partner's (with dependent children) income tax bands will apply.
- In subsequent years, if you have dependent children (a dependent child being a child under 18 years of age or, a child over 18 years of age in full time education or permanently incapacitated), you may be entitled to claim surviving civil partner with dependent child tax credit for 5 years after the year of your civil partner's death. You may also be entitled to claim one parent family tax credit for as long as you have dependent children.
- If you were both taxed as single persons, you will be entitled to the surviving civil partner's tax credit in the year of bereavement.

### **3.18 What is the position if I was assessed under separate assessment prior to my civil partner's death?**

- Where separate assessment applied prior to the death of your civil partner, the situation is the same as that outlined for joint assessment. The nominated civil partner will continue to receive the civil partner's tax credit and rate bands for the year of bereavement. You will be taxable on your own income for the full tax year in which your civil partner dies, plus your late civil partner's income from 1 January to the date of death.
- If you are not the "nominated civil partner" you will be taxable in your own right from the date of death of your civil partner and will qualify for the surviving civil partner's tax credit in the year of bereavement in respect of any income arising from the date of death of your civil partner until the end of the tax year.
- In subsequent years, you will be entitled to the surviving civil partner's tax credit and depending on your circumstances, the surviving civil partner's

(without dependent children) or the surviving civil partner's (with dependent children) income tax bands will apply.

- In subsequent years, if you have dependent children (a dependent child being a child under 18 years of age or, a child over 18 years of age in full time education or permanently incapacitated), you may be entitled to claim surviving civil partner parent tax credit for 5 years after the year of your partner's death. You may also be entitled to claim one parent family tax credit for as long as you have dependent children.

### **3.19 What happens if my civil partner and I decide to dissolve our partnership?**

Where a civil partnership is legally dissolved Revenue will record the dissolution and treat each member as individuals for tax purposes from the date of dissolution.

The income tax position is similar to that of a married couple that separate or divorce. The nominated civil partner is assessed on his or her civil partner's income from January 1 until the date the civil partnership is dissolved and is entitled to claim the full tax credits and standard rate band as before.

The other civil partner is assessed on his or her own income, as a single individual, from the date the civil partnership is dissolved.

### **3.20 What is the position if I am assessed under separate assessment prior to the dissolution of my civil partnership?**

Where separate assessment applies prior to dissolution, the situation is the same as that outlined for joint assessment. The civil partner, who is the nominated civil partner prior to the claim for separate assessment, is assessed on his or her civil partner's income from January 1 until the date the civil partnership is dissolved and is entitled to claim the full tax credits and standard rate band as before.

The civil partner who is not the nominated civil partner is assessed on his or her own income as a single individual from the date the civil partnership is dissolved.

### **3.21 Can I claim a deduction in respect of maintenance payments made to my former civil partner?**

Maintenance payments made under an Irish Court Order are allowable as a deduction against your income tax liability. Maintenance payments made to children are not deductible.

### **3.22 How am I assessed on maintenance payments made under an Irish Court Order ..**

If you are a PAYE employee, the tax on your maintenance payments will be collected by reducing your tax credits and standard rate band, or if the payment is above a certain limit and it is not possible to collect through the PAYE system you may be required to register for income tax.

If you are self employed or a PAYE worker you will have to declare this income.

If the only income you are in receipt of is the maintenance payment you must register as a self-employed individual. [Leaflet IT10 - A Guide to Self Assessment](#)

### **3.23 What is the position regarding maintenance payments made under a Foreign Court Order?**

As Foreign Court Orders are not included in the CPCROC Act 2010, maintenance payments made under a Foreign Court Order are not taken into account when calculating either civil partner's liability, i.e.

- The civil partner who makes the payment is not entitled to a tax deduction for them,
- The civil partner who receives the payments is not taxed on them
- Both civil partners are taxed on their own income as single individuals

### **3.24 How do I claim mortgage interest relief?**

Mortgage interest relief must be claimed online at [ros.ie/trs/claim](https://ros.ie/trs/claim).

If you cannot use the online facility, contact the TRS Helpline on 1890 46 36 26 or email [trsadmis@revenue.ie](mailto:trsadmis@revenue.ie) for assistance.

### **3.25 What is a qualifying mortgage in relation to claiming mortgage interest relief?**

A qualifying mortgage for the purpose of interest relief is a secured loan, used to purchase, repair, develop or improve your sole or main residence, situated in the State. You can claim tax relief in respect of the interest paid on this loan or mortgage. You can also claim tax relief in respect of the interest on a mortgage paid by you for your separated or divorced spouse or former partner in a dissolved civil partnership and a dependent relative (i.e. widowed parent or a parent who is a surviving civil partner, or an elderly relative) for whom you are claiming a dependent relative tax credit. For further information see [mortgage interest relief](#).

## **4. PAYE Taxpayers**

### **4.1 Can my civil partner avail of some of my unused tax credits and standard rate band?**

Where jointly assessed, specific tax credits and standard rate band can be allocated between individuals in a civil partnership during the year.

### **4.2 If I am unemployed or cease employment during the year can I transfer any unused transferable tax credits or rate band to my civil partner?**

Once you are assessed under joint assessment you can transfer any unused transferable credits or rate band to your civil partner. If you are assessed under separate assessment and are outside of the time limits for a withdrawal from separate assessment, they can be transferred on a review basis at the end of the year.

If you are taxed under the provisions of separate treatment and your civil partner becomes unemployed, to avail of any unused transferable credits or rate band you will have to withdraw from Separate Treatment during the tax year and elect to go back onto joint assessment. This cannot be done on a review basis.

You should note that certain payments from the Department of Social Protection (DSP), including Jobseeker's Benefit, are taxable and only credits and rate bands, which are unused after receipt of this DSP income, are transferable.

### **4.3 Am I still entitled to claim joint assessment if my civil partner has no taxable income?**

Yes, joint assessment will apply. All eligible tax credits and the standard rate band will be allocated to the civil partner with the taxable income.

### **4.4 Will we each receive a Tax Credit Certificate?**

If you are both in employment a separate Tax Credit Certificate showing a breakdown of your tax credits and standard rate band will issue to each of you.

### **4.5 Is there a reference made on my employer's copy of my Tax Credit Certificate that I am registered in a civil partnership?**

While you get a detailed notice setting out your tax credits each year, the only information given by your Revenue office to your employer is your annual tax credits, the corresponding weekly and monthly amounts and standard rate cut-off point. Your employer does not receive a detailed breakdown of the tax credits you have claimed, or any other information.

## **5. Self Assessed Taxpayers and Civil Partnerships**

### **5.1 Will my Civil Partner and I have to submit separate Returns of Income?**

If you are assessed under joint assessment the nominated civil partner is required to complete the Return of Income for both of you and is chargeable to tax on your joint income.

If you have not opted for joint assessment and are assessed as single individuals, you each are required to complete a separate Return of Income and you are chargeable on your own income.

### **5.2 If my civil partner is self employed and I am assessed under PAYE can Joint Assessment apply?**

Yes. You both decide how you wish to allocate your transferable tax credits. The PAYE tax credit and employment expenses remains with the PAYE taxpayer.

## **6. Employers and Civil Partnerships**

### **6.1 As an employer, am I informed that my employee is registered in a civil partnership?**

No, employees' personal circumstances are not disclosed to employers. You will receive an employer's copy of the tax credit certificate outlining the total amount of the tax credits and standard rate band to which the employee is entitled.

## **7. Inheritances (Capital Acquisitions Tax) and Civil Partnerships**

### **7.1 What are the tax implications of a civil partner inheriting property from his or her deceased civil partner?**

There are no tax implications in respect of inheritances taken by individuals in a civil partnership from each other. A surviving civil partner is exempt from Inheritance Tax on all assets he or she may inherit from the deceased civil partner.

### **7.2 What are the Inheritance tax implications for children in a civil partnership?**

A child of a civil partnership, whether it is your child, or the child of your civil partner, is entitled to a Group A tax free threshold in respect of inheritances taken from either or both civil partners in a civil partnership. The current tax-free threshold for Group A (2011) is €332,084. The reduced threshold of €250,000, applies to gifts and inheritances taken after 7 December 2011

## **8. Gifts, (Capital Acquisitions Tax, Capital Gains Tax and Stamp Duty), and Civil Partnerships**

### **8.1 What are the tax implications of a civil partner taking a gift of property, money, or any other assets from his or her civil partner?**

There are no tax implications in respect of gifts taken by civil partners from each other. Individuals in a civil partnership are exempt from Capital Acquisitions Tax (Gift Tax), Capital Gains Tax, and Stamp Duties in respect of gifts of any type made between them.

### **8.2 What are the tax implications for children of a civil partner who take a gift of property, money or other assets from either individual in the civil partnership?**

A child of one civil partner is entitled to a Group A tax free threshold in respect of gifts taken from either or both partners in a civil partnership. The current tax-free threshold for Group A (2011) is €332,084. The reduced threshold of €250,000, applies to gifts and inheritances taken on or after 7 December 2011.

#### **Note**

Capital Gains Tax may apply to the donor of certain non-cash gifts.

Stamp Duty may apply to the recipient of a gift of land, property or shares. Stamp Duty relief will be available for certain relatives (including children), who take a gift of non-residential property.

### **8.3 Where a civil partnership is dissolved in a foreign jurisdiction, are gifts, inheritances or transfer of assets made between former civil partners under a Foreign Court Order exempt from Capital Acquisition Tax, Capital Gains Tax or Stamp Duty?**

As Foreign Court Orders are not included in the CPCROC Act 2010, these payments are not exempt. The exemption continues to apply to payments made under an Irish Court Order.

#### **For further details see:**

[Oireachtas.ie/acts/2010](http://Oireachtas.ie/acts/2010). (Part 12 of the CPCROC Act 2010 refers to the Dissolution of Civil partnerships)[Capital Acquisitions Tax](#)

[Capital gains tax](#)

[STAMP DUTY](#)

## Appendix A:

List of jurisdictions included in the Civil Partnership (Recognition of Registered Foreign Relationships) Order 2010.

\* Second Order signed on 4 December 2011 [SI No 642 of 2011] recognised six additional relationships.

Reference number	Jurisdiction	Title of Relationship
1	Argentina	Marriage
2	Austria	Elingetragene Partnerschaft - Gesetz
3	Belgium	Marriage
4	Canada	Marriage
5	Czech Republic	Registrované partnerství
6	Denmark	Registreret partnerskab
7	Finland	Rekisteröity parisuhde
8	Germany	Eingetragene lebenspartnerschaft
9	Iceland	(a) Staðfest samvist (b) Marriage
10	Mexico City	Marriage
11	* Illinois (US)	Civil Union
12	* Isle Of Man	Civil Partnership
13	Netherlands	Marriage
	*New York (USA)	Marriage
14	New Zealand	Civil Union
15	Norway	(a) Registrert partnerskap (b) Marriage
	* Oregon (USA)	Domestic Partnership
16	Portugal	Marriage
17	* South Africa	(a) Marriage (b) Civil Partnership
18	Spain	Marriage
19	Sweden	(a) Registrerat partnerskap (b) Marriage
20	Switzerland	Eingetragene Partnerschaft / Partenariat enregistré
21	United Kingdom	Civil Partnership
22	California (USA)	Marriage
23	Connecticut (USA)	(a) Civil Union (b) Marriage
24	Iowa (USA)	Marriage
25	Massachusetts (USA)	Marriage
26	New Hampshire (USA)	(a) Civil Union (b) Marriage
27	New Jersey (USA)	Civil Union
	*Rhode Island (USA)	Civil Union
28	Vermont (USA)	(a) Civil Union (b) Marriage

29	Washington D.C. (USA)	Marriage
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This list is also available on Department of Justice and Equality website: [CPCROC-2010/Registered Foreign Relationships](#). Queries in regard to titles of relationships shown or not shown on this list should be directed to the Department of Justice and Equality: [www.justice.ie](http://www.justice.ie)

There is a 21-day time limit before a couple in a foreign civil partnership can be treated as civil partners under the law of the state. This time limit runs from the later of the signing of the order **or** the date the foreign civil partnership was entered into. Persons who were already in civil partnerships in those states obtain the benefits of Irish law twenty-one days later.

Couples entering into an approved foreign civil partnership after the order are recognised twenty-one days after they entered the civil partnership.

The second order was signed on 4 December 2011, therefore the effective is 25 December 2011 (i.e. 21 days after the order was signed.)