

PRSI – Maintenance Cases

Part 44-01-06

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Introduction

This manual sets out the PRSI position with regard to maintenance payments.

1 Income Tax

Individuals who pay legally enforceable maintenance under a formal separation agreement for the benefit of a separated or former spouse are, (where no election for aggregation has been made under section 1026 TCA, 1997), entitled to a deduction in arriving at their total income for income tax purposes for a year of assessment. Consequently, the maintenance received is assessable in the hands of the recipient.

Tax and Duty Manual [Part 44B-01-01](#) outlines the income tax position where maintenance payments arise in relation to civil partners and cohabitants.

2 PRSI Contributions

Section 37 of the Social Welfare Consolidation Act 2005 provides **for the return** of PRSI contributions in respect of any payment made under or pursuant to a maintenance arrangement –

- a) within the meaning of Section 1025 Taxes Consolidation Act 1997 (spouses), unless Section 1026 applies to such payment (where the couple had elected for aggregation of their respective incomes),
- b) within the meaning of Section 1031J Taxes Consolidation Act 1997 (civil partners), unless Section 1031K applies to such payment (where the couple had elected for aggregation of their respective incomes), or
- c) within the meaning of Section 1031Q Taxes Consolidation Act 1997 (cohabitants).

Where a taxpayer seeks a return of PRSI, he/she should be advised to contact the Department of Employment Affairs and Social Protection which will arrange for any return of contributions that are due – see [PRSI Refunds](#)