

# Tax treatment of Civil Partners

## Part 44A-01-01

This document should be read in conjunction with Part 44A of the Taxes Consolidation Act (TCA) 1997

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## Introduction

This manual explains the tax treatment of Civil Partners. The tax treatment of married couples is set out in Tax and Duty Manual [Part 44-01-01](#).

Following the passing of The Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010, the Taxes Consolidation Act 1997 (TCA) was amended to introduce legislation to provide for the tax treatment of civil partners. Part 44A of the TCA applies for the year of assessment 2011 and subsequent years of assessment in respect of civil partnerships.

With effect from 16 November 2015 following the enactment of the Marriage Act 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 Ireland. Any existing civil partners will continue as civil partners and their tax treatment is not affected by the Marriage Act 2015.

### 1. Year of assessment in which a civil partnership is registered in the State

Where civil partners register a civil partnership within a year of assessment, relief is provided by way of repayment of tax and divided between each civil partner (section 1031E).

In this section –

“income tax month” means a calendar month;

“year of registration” in relation to individuals who are civil partners means –

- (a) where the civil partnership was registered in the State, the year of assessment in which their civil partnership was first registered; and
- (b) where the legal relationship was entered into in another State, and which is recognised by way to an order made under section 5 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010, the year of assessment in which, by virtue of subsection (2) of that section, the civil partners are so recognised under the law of the State.

#### 1.1. Marriage Act 2015

A same sex couple who entered into a registered partnership before 15 May 2015 in another jurisdiction will be recognised as civil partners in Ireland provided the legal relationship is recognised in Ireland under a section 5 Order of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010. Full details of foreign registered relationships which are treated as equivalent to a civil partnership under Irish law are available from the [Department of Justice and Equality](#).

Following the introduction of the Marriage Act 2015, any new civil partnership entered into outside of Ireland from 16 May 2015 is not recognised as a civil partnership in Ireland.

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

### **Example 1**

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

### **Example 2**

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

## **1.2. Year of registration**

In the year of registration of a civil partnership the civil partners will continue to be taxed as single individuals during that year of assessment. Additional relief for the year of registration may be due on review of the civil partners' liability where the aggregate of the tax paid and payable by each the civil partner as a single individual for the year of assessment exceeds the tax that would have been payable if the civil partners had been jointly assessed to tax throughout the year of registration.

The relief is calculated by 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 civil partners for the whole of the tax year and jointly assessed, and

**B** is the number of calendar months during the year for which the couple have been registered as civil partners.

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 civil partners based on the tax payable or paid by each civil partner and in proportion to the number of months they were in a civil partnership.

### **Example**

A couple registered a civil partnership on 10 July 2015 and details of the employment income of the civil partners are €48,000 and €24,000 respectively.

Tax payable as single individuals in the year 2015 is as follows:

<u>1<sup>st</sup> Civil Partner</u>		€
Income		48,000
	33,800 x 20%	6,760
	14,200 x 40%	<u>5,680</u>
		12,440
<u>Tax Credits</u>		
Personal Tax Credits	1,650	
PAYE Tax Credit	1,650	<u>(3,300)</u>
Tax payable		9,140
<u>2<sup>nd</sup> Civil Partner</u>		
Income		24,000
	24,000 x 20%	4,800
<u>Tax Credits</u>		
Personal Tax Credits	1,650	
PAYE Tax Credit	1,650	<u>(3,300)</u>
Tax payable		1,500
<b>Combined tax payable</b>	<b>9,140 + 1,500 =</b>	<b>10,640</b>

Tax payable under joint assessment in the year 2015 is as follows:

Income	48,000 + 24,000		72,000
	66,800 x 20%	13,360	
	5,200 x 40%	<u>2,080</u>	
			15,440
<u>Tax Credits</u>			
Personal Tax Credits		3,300	
PAYE Tax Credit		3,300	<u>(6,600)</u>
<b>Tax payable</b>			<b>8,840</b>

Additional relief will be granted in the year of registration as follows:

Tax payable as single individuals		10,640
Tax payable under joint assessment		<u>8,840</u>
Difference		1,800
Date of registration of Civil Partnership		10/07/2015
Repayment total	1,800 x 6/12	900
Repayment to 1 <sup>st</sup> Civil Partner	$900 \times 9,140 / 10,640$	773.12
Repayment to 2 <sup>nd</sup> Civil Partner	$900 \times 1,500 / 10,640$	126.88

### **1.3. Entitlement to the Single Person Child Carer Credit in the year of registration**

For 2014 and subsequent years entitlement to the Single Person Child Carer Credit (SPCCC) should be determined by reference to the circumstances applying on 1 January in the year of assessment. If the registered civil partnership took place after that date and, prior to the registration of the civil partnership, either civil partner had been entitled to SPCCC, the credit should not be withdrawn for the year of registration of the civil partnership.

However, when determining, on review, any additional 'year of registration' relief is due under section 1031E (see [section 1.2](#) above), the SPCCC should be excluded from the computation of tax payable on the basis that both civil partners had been living together throughout the year.

The SPCCC is withdrawn for future years for either civil partner who had previously qualified for it.

### **1.4. Entitlement to the one-parent family tax credit in the year of registration (2011 to 2013 only)**

The One-Parent Family Tax Credit (OPFTC) ceased with effect from 1 January 2014.

For the years 2011 to 2013 inclusive, entitlement to the one-parent family tax credit was determined by reference to the circumstances applying on 1 January in the relevant year of assessment.

If the registered civil partnership took place after that date and, prior to the registration of the civil partnership, either civil partner had been entitled to one-parent family tax credit, the credit should not be withdrawn for the year of registration of the civil partnership.

However, in determining any additional relief due on review under subsection (3) of section 1031E (see section 1.2 above), the OPFTC should be excluded from the computation of tax payable on the basis that both civil partners had been living together throughout the year.

## **2. Basis of assessment for civil partners**

There are various assessment options available to civil partners. These options are:

- joint assessment (also known as aggregation),
- separate assessment, and
- separate treatment (treated as single persons).

A taxpayer may choose the option best suited to their circumstances.

### **2.1. Joint assessment**

Under joint assessment (section 1031C), one of the civil partners is chargeable to tax, not alone on his/her own total income, but also on the total income of his/her civil partner. The civil partner who is chargeable to tax on the income of both civil partners is known as the “nominated civil partner”.

All reliefs from income tax may be granted to the nominated civil partner for the period they are jointly assessed. This person continues to be the nominated civil partner unless the couple elect to nominate the other person. The nominated civil partner is responsible for filing tax returns, if required to do so, and paying any tax due.

Joint assessment is the option that benefits most couples as it allows them to split their tax credits and rate band. In joint assessment cases, section 15 provides for an increase in the amount of income chargeable to tax at the standard rate where each civil partner is in receipt of income. Jointly assessed couples cannot transfer the Employee Tax Credit, employment expenses or the increase in standard rate band. 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.

#### ***Automatic joint assessment***

In the absence of an election to the contrary, civil partners living together are deemed to have elected for joint assessment. Revenue will deem the civil partner with the higher income to be the nominated civil partner unless before the end of the year of assessment either partner gives notice in writing that they wish to be assessed as single persons. Once this notice has been given, joint assessment will not apply until such time as the civil partner who applied to be assessed as a single person withdraws their application.

**Example**

Jonathan and Mark are jointly assessed. Jonathan's total income for 2018 is his employment income of €45,000. His civil partner Mark has investment income of €26,000. Tax payable under joint assessment in the year 2018 is as follows:

Joint Income	€69,100 x 20%	€13,820	
	€1,900 x 40%	<u>€760</u>	
			€14,580
<u>Tax Credits</u>			
Personal Tax Credit		€3,300	
PAYE Tax Credit		€1,650	<u>(€4,950)</u>
Tax payable			€9,630

**2.2. Election to be jointly assessed**

Civil partners who are separately assessed or separately treated may elect to be jointly assessed (section 1031D). This election can occur at any time during a year of assessment by giving a notice in writing. Where such an election is made, the income of both civil partners is assessed accordingly for that year and they will continue to be jointly assessed for each subsequent year of assessment. The civil partners may also elect which of them is to be the nominated civil partner.

The civil partners can also give notice in writing to withdraw this election in any year of assessment. Either civil partner may request to be assessed separately and further may withdraw this notice at a later time.

Where an eForm12 is submitted by a couple at the end of the tax year, (for example to claim health expenses), either civil partner may complete the form. If the civil partner who completes the form is not the current assessable civil partner, they will become the assessable civil partner for that tax year only.

**2.3. Separate assessment**

Under separate assessment, each civil partner is assessed on his/her own income with tax credits and reliefs divided between the civil partners in accordance with section 1031I.

If separately assessed, the civil partners are both taxed as single people during the year. They can complete a single or a joint tax return. If they complete a joint tax return, it must include the income and expenses for both civil partners.

Separate assessment is also known as "separate assessment within joint assessment" as the unused tax credits, reliefs and rate bands of one civil partner may be transferred to the other civil partner. The aggregate of the tax payable by

each civil partner under separate assessment cannot exceed the tax payable had the civil partners elected to be jointly assessed.

### **Example**

Jonathan and Mark are separately assessed. Jonathan's total income for 2018 is his employment income of €45,000. His civil partner Mark has investment income of €26,000. Tax payable under separate assessment in the year 2018 is as follows:

<i>Jonathan's income</i>	€34,550 x 20%	€6,910	
	€10,450 x 40%	<u>€4,180</u>	€11,090

#### Tax Credits

Personal Tax Credit		€1,650	
PAYE Tax Credit		€1,650	<u>(€3,300)</u>
Tax payable			€7,790

<i>Mark's income</i>	€26,000 x 20%		€5,200
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#### Tax Credits

Personal Tax Credit		<u>€1,650</u>	
Tax payable			€3,550

Combined tax payable	€7,790 + €3,550 =		€11,340
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Additional tax relief is available in the form of unused tax credits, reliefs and rate bands. In this example, Mark can transfer his unutilised standard rate tax band of €8,550 (€34,550 – €26,000) to Jonathan and Jonathan can get additional tax relief at the standard rate of tax i.e. €1,710.

Therefore the net combined tax payable will be €9,630 (€11,340 – €1,710), the same amount of tax payable as under joint assessment.

## **2.4. Election to be separately assessed**

Civil partners who are jointly assessed to tax on their combined incomes may apply to Revenue to have their income separately assessed (section 1031H). This option cannot be backdated and will last until a request is made to change it. The decision to opt for separate assessment can be made by either civil partner and must be withdrawn by whoever requests it. An application for separate assessment must be made by 31 March following the year of registration of the civil partnership, or in any other case, between 1 October of the previous year and by 31 March in the year that the couple want separate assessment to apply.

## 2.5. Separate treatment

Under separate treatment, also known as single assessment, (section 1031B), each civil partner is treated for tax purposes as if they had not entered into a civil partnership and is assessed and charged on his/her own income. The main difference between separate treatment and separate assessment is that, under separate treatment, one civil partner's unused tax credits, reliefs and rate bands cannot be transferred to the other civil partner.

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

### Example

Jonathan and Mark are separately treated. Jonathan's total income for 2018 is his employment income of €45,000. His civil partner Mark has investment income of €26,000. Tax payable under separate treatment in the year 2018 is as follows:

<i>Jonathan's income</i>	€34,550 x 20%	€6,910	
	€10,450 x 40%	<u>€4,180</u>	
			€11,090
<u>Tax Credits</u>			
Personal Tax Credit		€1,650	
PAYE Tax Credit		€1,650	<u>(€3,300)</u>
Tax payable			€7,790
<i>Mark's income</i>	€26,000 x 20%		€5,200
<u>Tax Credits</u>			
Personal Tax Credit			<u>€1,650</u>
Tax payable			€3,550
Combined tax payable	€7,790 + €3,550 =		€11,340

## 2.6. Election for separate treatment

Separate Treatment can be claimed in writing in the year the civil partners want it to apply. Either civil partner can make the claim and the election lasts until withdrawn by the civil partner who requested it.

Further information on the basis of assessment for cases of [Marriage and Civil Partnerships](#) is available on the Revenue website.

### **3. Aggregation of income of civil partners - cases involving non-residence**

Entitlement to the joint tax credit and standard rate bands is dependent upon the nominated civil partner being chargeable to tax in respect of the joint total incomes of both civil partners in accordance with section 1031C TCA 1997 i.e. aggregation basis of assessment or joint assessment.

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

[...]

#### **3.1. Cases where only one civil partner is resident in the State and that civil partner has income chargeable to tax in the State**

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

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

In cases where only one civil partner is resident in the State and that civil partner has income chargeable to tax in the State, if satisfied that the other civil partner has no income and the earnings of the civil partner working in the State are the only source of income of the couple, aggregation basis may be applied in the normal way (i.e. 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 civil partner will need to complete a return of income, including a declaration of their partner's income in order to receive the joint tax credit and the increased rate band.

Even if the non-resident civil partner has income, a measure of relief may, depending of the level of that income, 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 both civil partners had been chargeable to tax on the basis of aggregation.

To avail of this practice, the civil partners should make a specific election for aggregation basis and the civil partner with income chargeable to Irish tax should be requested to give details of the couple's total incomes (i.e. the income of both civil partners including income not chargeable to Irish tax). In cases of difficulty, a separate return should be requested from each civil partner.

#### ***Example***

In 2017, a resident individual has income of €45,000 from an Irish employment. His/her civil partner, who is non-resident, has foreign investment income of €10,000. His/her income tax liability on the basis of separate treatment is –

Earnings		€45,000
€33,800 @ 20%	€6,760	
€11,200 @ 40%	<u>€4,480</u>	€11,240
Tax Credits		
Personal credit	€1,650	
PAYE credit	<u>€1,650</u>	<u>(€3,300)</u>
		€7,940

The tax liability on the total income of the civil partners on the basis of aggregation would be -

Earnings (Resident Civil Partner)		€45,000
Investment Income (Non-Resident Civil Partner)		<u>€10,000</u>
		€55,000
€52,800 @ 20%	€10,560	
€2,200 @ 40%	<u>€ 880</u>	€11,440
Tax Credits		
Personal credit	€3,300	
PAYE credit	<u>€1,650</u>	<u>(€4,950)</u>
		€6,490
Tax attributable to the Irish income (€6,490 x €45,000/€55,000)		€5,310
Additional relief due to the resident civil partner (€7,940 - €5,310)		€2,630

### 3.2. Cases where both civil partners are non-resident but one civil partner has income chargeable to tax in the State

The most common type of case is that of a civil partner who is a cross-border worker or who is working in this country on a temporary assignment.

Where neither civil partner is resident in the State but one civil partner is in receipt of income chargeable to tax in the State (e.g. income from exercising an employment here), he/she:

- i. is chargeable to Irish tax on that income on the basis of separate treatment as a single person; and
- ii. may be granted the single person's tax credits and reliefs or a proportion thereof in accordance with the provisions of section 1032 TCA 1997, which provides for tax credits and allowances to be granted to non-resident individuals in certain circumstances – see Tax and Duty Manual [Part 45.01.01](#).

Where section 1032 TCA 1997 applies, any apportionment of the tax credits etc. should be carried out by reference to the world income of the civil partner with the Irish source of income. The income of the other civil partner should not be taken into account.

**Note:** As regards Section 1032, residents of another member state of the European Union are entitled to full personal tax credits and reliefs in respect of any tax year in which 75 per cent or more of their worldwide income is taxable in Ireland.

Where both civil partners are non-resident but one civil partner has income chargeable to tax in the State, if Revenue are satisfied that the other civil partner has no income and the earnings of the civil partner working in the State are the only source of income, aggregation basis may be applied in the normal way (i.e. the joint tax credit and the increased rate band should be given accordingly).

Even if the other civil partner has income, a measure of relief may, depending of the level of that income, 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 both civil partners had been chargeable to tax on the basis of aggregation.

To avail of this practice, the couple should make a specific election for aggregation basis and the civil partner with income chargeable to Irish tax should be requested to give details of the couple's total incomes (i.e. the income of both civil partners including income not chargeable to Irish tax). In cases of difficulty, a separate return should be requested from each civil partner.

**Example**

For 2017, civil partners are resident in the United Kingdom. One civil partner has €10,000 from an Irish non-proprietary directorship and €22,000 from a U.K. employment. The other civil partner has no income.

The civil partner's income tax liability on the basis of separate treatment and relief under section 1032 TCA 1997, is -

Irish directorship		€10,000	
€10,000 @ 20%			€2,000
		<u>€10,000</u>	
Personal credit	€1,650 x	€32,000	= €516
		<u>€10,000</u>	
PAYE credit	€1,650 x	€32,000	= €516
			<u>€1,032</u>
			€968

The tax liability on the total income of the civil partners on the basis of aggregation would be -

Irish directorship		€10,000
U.K. employment		<u>€22,000</u>
		€32,000
€32,000 @ 20%		€6,400
Personal credit	€3,300	
PAYE credit	€1,650	<u>€4,950</u>
		€1,450
Tax attributable to the Irish income		€453
(€1,450 x €10,000/ €32,000)		
Additional relief due		€515
(€968 - €453)		

In relation to the example above, it should be noted that the procedures outlined in these instructions are ancillary to and not in substitution for section 1032 TCA 1997.

Where the normal operation of section 1032 TCA 1997 (applied on the basis of a single treatment) produces a lower liability, that liability should not be increased by reference to these procedures (e.g. if in the example above, the tax attributable to the Irish income exceeded the tax on the Irish directorship as shown in the first computation (€968), 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.

## 4. Tax credits in the year of death of a civil partner

The tax credits in the year of death will depend on how the civil partners were assessed prior to the death of the civil partner.

### 4.1. Taxed under joint assessment prior to the death of a civil partner

If the late civil partner was the "nominated civil partner", i.e. the person responsible for making a joint tax return on behalf of both civil partners, the surviving civil partner will be entitled to the increased basic personal tax credit in accordance with section 461(b). The income to be assessed is in respect of the period from the date of death to the following 31 December. The surviving civil partner's standard rate band (or increased rate band if they have dependent children) will apply for this period.

#### *Example*

Kris and Ashley are taxed under joint assessment. Kris is the nominated civil partner. Ashley dies in 2017. Kris is taxed as follows:

Year	Rate Band	Personal credits	Taxable income
2016	€42,800 @ 20% + increase of €24,800. Balance @ 40%	Civil partner €3,300	Joint income from 1 January–31 December
2017 (year of death)	€42,800 @ 20% + increase of €24,800. Balance @ 40%	Civil partner €3,300	Own income from 1 January–31 December  Ashley's income from 1 January to date of death

In the case of death of the other civil partner, the "nominated civil partner" is entitled to the increased civil partner's tax credit and appropriate standard rate band for the remainder of the tax year. The nominated civil partner will be assessed on his/her own income for the full tax year plus the late civil partner's income from 1 January to the date of death.

#### *Example*

Kris and Ashley are taxed under joint assessment. Kris is the nominated civil partner. Kris dies in 2017. Ashley is taxed as follows:

Year	Rate Band	Personal credits	Taxable income
2017 (year of death)	€33,800 @ 20% Balance @ 40%	Civil partner(year of death) €3,300	Own income from date of Kris's death to 31 December

## 4.2. Taxed as single persons

If the registered civil partners were assessed on the basis of separate treatment prior to the death of the nominated civil partner's death, the only alteration in the tax credits and rate bands by reason of the death of the nominated civil partner is that the surviving civil partner is entitled to the surviving person's tax credit in substitution for the single tax credit for the year of death.

## 4.3. Taxed under the basis of Separate Assessment

In the case of the death of the "nominated civil partner" where separate assessment is applicable, the other surviving civil partner is entitled to an allocation of part of his/her nominated civil partner's tax credits in respect of the pre-death period and to tax credits etc. in his/her own right in respect of the post-death period.

If the surviving civil partner is the nominated civil partner, he/she will continue to be taxed under separate assessment on his/her civil partner's income from 1 January to the date of their death.

## 5. Maintenance of civil partners living apart

Sections 1031J and 1031K contain the provisions regarding the taxation of couples who are living apart and also dissolved/annulled civil partners who have entered into maintenance arrangements that are legally enforceable.

In this section -

"maintenance arrangement" means -

(a) an order of a court, under Part 5 or 12 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010,

or

(b) 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 —

(i) the dissolution or annulment of a civil partnership, or

(ii) living separately in the circumstances referred to in section 1031A(2).

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

### 5.1. Maintenance of civil partners living apart

Section 1031J of the TCA 1997 provides that in relation to maintenance payments where civil partners are living separately and payments are made by one civil partner for the benefit of his/her civil partner or former civil partner -

- (a) the civil partner (payer) will make the payments gross;
- (b) the civil partner (payer) will be allowed, in computing his or her total income, a deduction for maintenance payments made in the year of assessment for the benefit of the other civil partner;
- (c) the recipient will be taxable under Case IV, Schedule D, in respect of such maintenance payments received; and
- (d) both will be taxed as single persons.

Alternatively where –

- (a) a civil partnership has not been dissolved or annulled -

section 1031K TCA 1997 provides that where both parties are resident in the State for the year, they may jointly elect under section 1031D TCA 1997 for aggregation basis. In this event, the payer will get no deduction for the maintenance payments nor will the recipient be taxable on them. If the recipient has other income, however, the couple will be assessed as if an application for separate assessment had been made under Section 1031H TCA 1997,

or

- (b) Civil partnership has been dissolved under either-

- (I) 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,

or

- (II) the law of a country or jurisdiction other than the State, being a dissolution that is entitled to be recognized as valid in the State

and

- (i) both civil partners are resident in the State for tax purposes for the year of assessment, and

- (ii) neither civil partner has entered into another civil partnership, or married

then the couple may jointly elect for aggregation as if their civil partnership had not been dissolved.

Where the maintenance arrangement provides for the payment, for the benefit of a child (whether paid to the recipient or to any other person), of specified sums or of amounts which are quantifiable under the terms of the maintenance arrangement -

- (a) the payments are to be made gross,

- (b) the payer is not allowed a deduction for such payments, nor are they to be treated as income of the other civil partner,
- (c) the civil partner will be regarded as having contributed, to the extent of such payments, to the maintenance of the child for the purposes of a claim to incapacitated child allowance or part thereof under Section 465(6) TCA 1997.

## **5.2. Charging of recipient under Case IV in respect of maintenance payment.**

If the recipient civil partner is employed it may be possible to restrict this Case IV source from the tax credits.

Relevant sections of the Taxes Consolidated Act 1997 are sections 1031J and 1031K.

## **6. Joint assessment for civil partners for CGT purposes**

Civil partners living together may nominate which partner is to be the assessable person for the purposes of Capital Gains Tax (CGT) – section 1031M. Allowable losses of one partner may be used in determining the liability of the other civil partner.

The transfer of assets between the civil partners in a year of assessment shall be on the basis of “no gain, no loss”.

### **6.1. CGT on the transfer of assets between separated civil partners, or following the dissolution of a civil partnership**

Where by virtue of -

- (a) an order made under Part 12 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010, or following the granting of a decree of dissolution under section 5(4) of that Act, or
- (b) a deed of separation, agreement, arrangement or any other act giving rise to a legally enforceable obligation, and made or done as a result of separation in the circumstances referred to in section 1031A(2),

either civil partner disposes of an asset to the other civil partner, that transfer shall be on the basis of “no gain, no loss” – section 1031O.

This provision does not apply in circumstances where the civil partner acquiring the asset is not subject to tax in the State in the year in which the acquisition took place.