Written evidence submitted by the Low Incomes Tax Reform Group (FB09)

Finance Bill (No.2) 2017-19 briefing
Clause 6 – Transfer of tax allowance after death of spouse or civil partner
Representation from the Low Incomes Tax Reform Group (LITRG)

Executive Summary

We welcome this clause, which corrects an injustice by enabling bereaved people to benefit from the transferable marriage allowance after the death of their spouse or civil partner, for a tax year in which that partner was alive.

1 This clause amends the provisions in the Income Tax Act 2007 which govern the transferable marriage allowance introduced from 2015/16. Under these provisions (sections 55A to 55E), provided certain conditions are met,[1] a spouse or civil partner can elect under section 55C to transfer a percentage (10%) of their personal allowance to their partner, in which case their personal allowance will be reduced by that amount and their partner will benefit from a commensurate tax reduction under section 55B.

2 So in 2018/19, for which the personal allowance is set at £11,850, A can elect to transfer £1,185 of their personal allowance to their spouse/civil partner, B. That will leave A with a reduced personal allowance of £11,850 - £1,185 = £10,665 and give B a tax reduction equal to £1,185 at the basic rate (20%) – therefore, £237.

3 Hitherto, the legislation has been drafted in such a way that the partner giving up part of their personal allowance and the partner entitled to the tax reduction must be married to, or in a civil partnership with, one another *at the time the election is made*. So if the partner who would otherwise have been able to make the election under section 55C to transfer part of their personal allowance is no longer alive, the marriage allowance is not available and the surviving partner cannot benefit from the tax reduction under section 55B. This has caused resentment among those bereaved spouses/civil partners who were unaware of the

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[1] The conditions are that the spouse or civil partner entitled to the tax reduction must not be liable to tax at a rate other than the basic rate, the dividend ordinary rate or the starting rate for savings, must be UK-resident, and neither that individual nor his/her spouse or civil partner has claimed the married couple's allowance, a different tax break available to couples one of whom was born before 6 April 1935.

allowance until after their partner's death, when something – probably advice received from a professional person assisting with the administration of the estate – drew their attention to it.

4 When the Low Incomes Tax Reform Group first drew attention to this anomaly which had featured consistently in correspondence to the Group from members of the Chartered Institute of Taxation and the general public, the Government were sympathetic. Accordingly this clause allows an election to be made under section 55C by the personal representatives of a deceased person, and for that election to have effect for the tax year of death and any earlier year, up to the statutory limit of four years previously. Elections can be made by personal representatives on this basis on and after 29 November 2017.

5 Thus, if spouse/civil partner A were to die in 2018/19 without having made any election, his/her personal representatives could make that election both for the year of death (2018/19) and for any of the previous years during which the transferable marriage allowance was in force (2017/18, 2016/17 and 2015/16) and the surviving spouse/civil partner B could claim a tax reduction for any of those years.

6 This clause will enable those who have previously tried to make an election on behalf of a deceased individual, but whose claim has been rejected, to make a fresh election.

7. **About Us**

The Low Incomes Tax Reform Group (LITRG) is an initiative of the Chartered Institute of Taxation (CIOT) to give a voice to the unrepresented. Since 1998 LITRG has been working to improve the policy and processes of the tax, tax credits and associated welfare systems for the benefit of those on low incomes. Everything we do is aimed at improving the tax and benefits experience of low income workers, pensioners, migrants, students, disabled people and carers.

LITRG works extensively with HMRC and other government departments, commenting on proposals and putting forward our own ideas for improving the system. Too often the tax and related welfare laws and administrative systems are not designed with the low-income user in mind and this often makes life difficult for those we try to help.

The CIOT is a charity and the leading professional body in the United Kingdom concerned solely with taxation. The CIOT's primary purpose is to promote education and study of the administration and practice of taxation. One of the key aims is to achieve a better, more efficient, tax system for all affected by it – taxpayers, advisers and the authorities.

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