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Income tax allowances for married couples

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Inside:

Contents

Summary

Since the introduction of independent taxation in 1990, all individuals have been assessed for tax as separate persons. This reform reversed a principle that had underpinned the tax system for almost two hundred years: that a married woman's income was simply part of her husband's income, and should be taxed as such.

As part of this reform a new tax allowance, the married couple's allowance (MCA), was introduced. The MCA could be claimed by all married couples. In April 2000 the MCA was withdrawn from all couples, except those who had *already* reached the age of 65 or over. This remains the case. As a consequence only those couples in which one partner is at least 87 years old will be entitled to claim the MCA in the coming tax year (2021/22).[1]

In September 2013 the then Prime Minister, David Cameron, announced the introduction of a new transferable tax allowance for married couples and civil partners. From April 2015 spouses and partners would be allowed to transfer £1,000 of their own personal tax allowance to their partner, provided neither of them were higher rate taxpayers. In the March 2015 Budget it was confirmed that the personal allowance would be £10,500 for 2015/16, so that the 'marriage allowance', as it is sometimes called, would be set at £1,050. The allowance would be set at 10% of the personal allowance in future years.[2]

Initially eligible couples had to register online for the 'marriage allowance',[3] but may now apply by phone, using HMRC's helpline for income tax queries on 0300 200 3300.[4] Couples who register after the beginning of the tax year are still be entitled to the full annual allowance. The general time limit for making a claim for repayment of overpaid tax is four years, so that eligible couples who have not claimed for the tax year 2016/17 will have until 5 April 2020 to do so.[5] In the Autumn 2017 Budget the Government announced that provision would be made to allow claims in cases where a partner has died before the claim was made. Claims may be backdated by up to 4 years.[6]

In the 2021 Budget the Chancellor Rishi Sunak confirmed that for the coming tax year, 2021/22, the personal allowance would be £12,570 and the 'marriage allowance' would be £1,260. As recipients use the transferred allowance to offset against their liability to basic rate tax, which is charged at 20%, the allowance may be worth up to £252.[7]

This note gives a short history of the withdrawal of the married couple's allowance, and the introduction of the marriage allowance. A second Library paper discusses the development of the new marriage allowance, in the context of wider debates about the way in which the tax system treats married persons.[8]

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1 For guidance see, HMRC, *Married couple's allowance*, ret'd March 2021

2 HMRC, *Transferable tax allowances for married couples and civil partners*, 19 March 2014

3 HM Treasury press notice, *Registration opens for new married couples tax break*, 20 February 2015. For guidance see, HMRC, *Marriage allowance*, ret'd March 20201; and, Low Incomes Tax Reform Group, *What tax allowances am I entitled to?*, 12 March 2021.

4 Taxpayers may also make a claim through self assessment if they are already register and send tax returns, or by writing to HMRC (HMRC, *Apply for marriage allowance*, ret'd March 2021).

5 The deadline to claim the allowance back to its first year, 2015/16, was 5 April 2020 (see, Low Incomes Tax Reform Group press notice, *A year left to claim full marriage allowance refund*, 5 April 2019.

6 This change was announced in the 2017 Autumn Budget (HMRC, *Income Tax: Marriage Allowance claims on behalf of deceased partners*, 22 November 2017).

7 HM Treasury, *Budget 2021: overview of tax legislation and rates*, March 2021 (Annex A: Rates and Allowances).

8 *Tax, marriage & transferable allowances*, Commons Briefing Paper CBP 4392, 14 January 2019

1. The married couple's allowance

1.1 Introduction

All individuals receive a personal allowance which they can set against income tax. For 2021/22 this allowance is £12,570.[9]

Prior to 2013/14, individuals over the age of 65 could claim an addition to the personal allowance, while those aged 75 or over could claim a second addition. In the 2012 Budget the Coalition Government announced that from April 2013 these allowances would be frozen – at £10,500 and £10,660 respectively – until they became aligned with the personal allowance. Only *existing* recipients would be entitled to claim either allowance. Both allowances have now been overtaken by the personal allowance and have been withdrawn.[10]

In the past married couples have been entitled to claim an additional allowance, the MCA, which could either be split between them, or given in full to either spouse. Since 2000/01 the allowance has only been given to couples who reached the age of 65 by the start of that tax year (ie, those couples where at least one partner was born before 6 April 1935).[11] For 2021/22 this allowance is £9,125. Tax relief for this allowance is 'restricted' to 10%. In effect taxpayers receive a credit worth 10% of the MCA to set against their final tax bill: ie, £913.

The value of the MCA is gradually reduced for taxpayers earning above the 'income limit', subject to a minimum allowance.[12] For 2021/22 this minimum allowance is set at £3,530, restricted to 10%, while the income limit is set at £30,400. No couple that are still entitled to claim the MCA receive less than this minimum.

Where a couple marry during the tax year the allowance is reduced by one twelfth for each complete tax month pre-marriage. In the first instance the MCA is given to the husband, though if couples elect, the minimum MCA can be transferred to the wife or split equally between spouses. In previous years, in line with the personal allowance, an age-related MCA was given to couples between 65 and 74, and a second, higher MCA to those 75 or over. Given that anyone born before 6 April 1935 will be 87 or more in 2021/22, only the second of these allowances remains applicable.

On 5 December 2005 the *Civil Partnership Act 2004* created a new legal status for same-sex couples. In March 2005 the Government announced that civil partners would be treated the same as married couples for tax purposes. As a consequence, civil partners may claim the MCA, provided – as with married couples – one partner was born before 6 April 1935.

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9 The allowance is tapered for individuals with an income over £100,000. It is reduced by £1 for every £2 someone's income exceeds this limit, until completely withdrawn.

10 For details see, *Age-related personal allowance*, CBP6158, 11 May 2016

11 When a person born on or before 5 April 1935 newly gets married, that person or their spouse is entitled to claim the MCA.

12 Age-related personal allowances, when they were provided, were also withdrawn in the same way.

1.2 The proposal to abolish the MCA

Personal allowances are worth more to higher rate taxpayers, since they represent a fixed sum which is exempted from tax at an individual's highest marginal tax rate. In his March 1993 Budget, the then Chancellor Norman Lamont argued that this was contrary to the purpose of the MCA: "there is no good reason why an allowance intended to recognise the responsibilities of marriage should give least to those on low incomes and most to those right at the top of the income scale."[13] He proposed that the MCA be 'restricted' to 20% from April 1994. In the November 1993 Budget the then Chancellor, Kenneth Clarke, confirmed this change, and went on to announce that the MCA would be further restricted to 15% from April 1995. Provision to restrict the MCA was contained in the Finance Bill that year, and agreed without amendment. During the Committee debate there was general support for the principle that the MCA should be worth the same amount to all taxpayers.[14] The MCA was restricted to 15% over the four tax years 1995/96 to 1998/99; and to 10% thereafter.

In his 1999 Budget speech the then Chancellor Gordon Brown announced that the 'basic' married couple's allowance – given to couples under 65 – would be withdrawn from 6 April 2000.[15] Couples in which at least one of the spouses was aged 65 or more on or before 5 April 2000 would be able to keep the MCA when it was abolished for younger couples. However, from this date, people would not be able to make new claims for the MCA when they or their spouse reached 65.[16]

Mr Brown also announced that the additional personal allowance would be withdrawn with the MCA in April 2000. The allowance was set equal to the MCA and given to lone parents – whether single, divorced, or widowed – caring for one or more children under 16 (or over 16 and in full-time education or in an apprenticeship of at least two years' duration).[17]

In his 2000 Budget speech the Chancellor confirmed that the basic MCA would be withdrawn and that the two age-related allowances for couples would be increased in line with inflation. He also announced that a new children's tax credit (CTC) would be introduced from April 2001, given to families who have one or more children under 16 living with them.[18] The credit would take the form of an allowance – set at £5,200 for 2001/02 – for which relief would be given at 10%: in effect those families eligible to claim the CTC would be able to cut their annual income tax bill by up to £520. In April 2002 the credit was increased in line with inflation – to £590 for 2002/03 – and an

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13 HC Deb 16 March 1993 c182
14 SC Deb (A) 22 February 1994 c344, c348
15 HC Deb 9 March 1999 cc 182-183
16 For 1999/2000 the basic MCA was £1,970 restricted to 10 per cent.
17 Married parents in this situation whose partner was incapacitated were also entitled to claim this allowance.
18 HC Deb 21 March 2000 c871

additional 'baby' rate was paid for the first year of a child's life – equivalent to a further credit of £10 a week.[19]

The Government's purpose in introducing the new credit was, as the Chancellor stated in his March 1999 Budget speech, to "substantially increase support for families with children", and to do so, "in the fairest way" – two principles governing its approach to the taxation of families.[20] As a consequence eligibility for the CTC was based on whether someone was caring for a child – rather than their marital status – and the value of the credit was tapered for higher rate taxpayers (by £1 for every £15 of income above the higher rate threshold, until entitlement to the credit was exhausted).

To ensure that the taper operated in the way intended, if one partner in a couple was a higher rate taxpayer, they were obliged to claim the CTC for their household, and could not transfer it to their lower earning partner. In contrast to the CTC, the MCA was worth the same cash amount to all taxpayers, irrespective of their income. As the Chancellor went on to say in his Budget speech, "it is in fulfilment of [these] two principles that the children's tax credit will be tapered away for the higher-earning family where there is a top-rate taxpayer."[21]

At the time there was some criticism that the CTC was not tapered with reference to family income, potentially penalising single-earner couples on the same income as dual-earner couples. Following consultation, Mr Brown announced in his 2002 Budget that a 'child tax credit' would be introduced from April 2003, to replace the support provided by the CTC and the child elements of four other benefits/credits: income support, jobseeker's allowance (income-based), working families' tax credit (WFTC) and disabled person's tax credit (DPTC).[22] Awards for the new credit would be based on the income of the family, and to be paid to the main carer. A second new credit – the 'working tax credit' – was introduced in April 2003 as well, merging in-work support provided through the WFTC and DPTC.[23]

The then Paymaster General, Dawn Primarolo, set out the Labour Government's reasons for abolishing the MCA and additional personal allowance in a written answer in March 2001:

> **Mr. Sarwar:** To ask the Chancellor of the Exchequer if he will make a statement on the married couples allowance.
>
> **Dawn Primarolo:** The married couples allowance and related allowances did not effectively support either children or marriage. They were available to all married couples, whether or not they had children, and were also available to single parents and to unmarried parents living together. The overlap between these allowances meant that twice the usual amount of relief could be available in the year a married couple separated.

19 The 'baby credit' was announced in the 2001 Budget (HC Deb 7 March 2001 c305).
20 HC Deb 9 March 1999 c183
21 HC Deb 9 March 1999 c183
22 HC Deb 17 April 2002 c587. For the background on this issue see *Tax Credits Bill*, Commons Briefing paper CBP01/110, 5 December 2001.
23 Guidance on tax credits is collated on Gov.uk.

> We are therefore replacing the married couples allowance with the Children's Tax Credit, which will give more help to families at the time they need it most: when they have children. Following this year's Budget, it will be worth up to £520 a year from April (over two and a half times the former married couple's allowance). In April 2002, to help families with a new baby, there will be a higher rate of Children's Tax Credit in the year of their child's birth worth up to £1,040 a year, over five times the value of the former married couple's allowance.[24]

1.3 Concerns about abolition: a 'gap year'

When these changes were first announced there was some criticism of there being a 'gap' year between the abolition of the MCA and those allowances linked to it,[25] and the introduction of the CTC in April 2001. At the time the Labour Government argued that this measure should not be seen in isolation, but of a piece with other measures to redirect resources to families: principally, a substantial two-stage increase in child benefit for the eldest child in April 1999 and April 2000;[26] and, an increase in the level of in-work benefits paid to low income families with children, through the replacement of family credit by working families tax credit (WFTC) from October 1999. WFTC was more generous than family credit for a number of reasons: the level of earnings at which the credit was withdrawn was higher, the rate at which it was withdrawn as earnings rose was not so steep, and the individual credits paid were higher.

It was estimated that by April 2001 about 1.4 million working families would be receiving WFTC, around 500,000 more families than would have received family credit.[27] The cost of the new credit was projected to be "around £5 billion per year which represents approaching £1½ billion more resources than family credit" although the exact figure would depend on take-up.[28] Given this, Ministers argued that the abolition of the MCA did not create a 'gap' as such, since resources were not being taken away from families without replacement.[29]

Legislation to abolish the MCA was made in section 31 of the *Finance Act 1999*. When this provision was debated, the then Paymaster General, Dawn Primarolo, set out the Government's case as follows:

> My right hon. Friend the Chancellor made it clear in his Budget speech that family life is the foundation of our society. Our first principle is support for the family, and the interests of children must be paramount. Many points made in both debates this

24 HC Deb 14 March 2001 c654W

25 Two other personal allowances are also tied to the basic MCA: the widow's bereavement allowance, and relief for maintenance payments to a divorced or separated spouse. Both were withdrawn from April 2000.

26 Child benefit for the eldest child rose from £11.45 to £14.40 from April 1999, and to £15.00 from April 2000. Benefit for the second and subsequent children was increased from £9.30 to £9.60 from April 1999, and to £10 from April 2000.

27 HM Treasury, *Budget 99: building a stronger economic future for Britain*, HC 298 March 1999 p58

28 HM Treasury, *Budget 98: new ambitions for Britain*, HC 620 March 1998 p47

29 The Paymaster General made this point when the abolition of the MCA and related allowances were scrutinised at the Committee stage of the Finance Bill in May 1999: SC Deb (B) 18 May 1999 c279. See also the debate at the Report stage of the Finance Bill in July 2000 (HC Deb 18 July 2000 cc 280-297).

> evening have been about the married couple's allowance. It was originally provided for married men, from 1918, in recognition of the fact that their wives were not in paid employment after marriage. That lasted until just before the Second World War when the Government of the day advanced tax policy to encourage married women to stay in the labour market or return to it.
>
> After years of amendment and change, the present Government inherited a married couples allowance that is, in fact, restricted neither to marriage nor to couples. Nor, indeed, is it strictly an allowance, as it is a tax credit paid at the same flat rate to married couples, single parents and unmarried parents who live together.
>
> Far from recognising marriage … the allowance is so confused that it can even be paid twice--at the full rate to both partners in the year of separation or divorce. A married couple's allowance that can pay more for separation or divorce surely cannot be said to uphold the institution of marriage.[30]

1.4 Concerns about abolition: married couples over 65

One issue the Minister did not specifically address was the position of those married couples who turned 65 relatively soon after April 2000. For 2000/01 the MCA for couples aged between 65 and 74 was equivalent to a tax credit worth just over £518. In effect, this is what couples who turned 65 after 6 April 2000 lost – provided they were in a position to make full use of the credit.[31] That said, there were a number of other changes announced by the Chancellor in his 1999 Budget that were likely to mitigate the impact of this change: namely, the introduction of the 10p starting rate of income tax from April 1999, and the cut in the basic rate of tax from 23% to 22% from April 2000.

Moreover, as mentioned above, the Government's rationale in abolishing the MCA was that these resources should be channelled to families with children - rather than to couples; in other words, when someone decides whether they should be married or not, the State should have no part in affecting their decision by providing a financial incentive which rests on their decision. Scrapping the MCA for all married couples would have hit poorer pensioners quite hard, who may well have relied on receiving this allowance - so it is arguable that a fairer way of withdrawing the allowance was to preserve it for those who were already receiving it.

Keeping the MCA for those who reach 65 in future years might be thought unfair - especially to those who reach 65 unmarried. For these taxpayers, it might seem perverse to provide additional help for married pensioners, when the original purpose of the married man's allowance (the forerunner of the MCA, introduced in 1918), was to acknowledge the costs in marriage: ie, that it was the norm at that time for a woman to give up work when she married to look after the children she and her husband looked forward to having.

30 HC Deb 28 April 1999 cc 395-396

31 This point was made forcefully by the then Leader of the Opposition, William Hague, during Prime Minister's Questions on 10 November 1999 (HC Deb c1126).

A final point to make is that individuals who reached 65 after this cut-off point became entitled to the age-related personal allowance, which was increased substantially in real terms, first when the abolition of the MCA was announced – for 1999/2000 – and then, four years later, in 2003/04.[32] As noted above, although these allowances were generally increased in line with inflation in later years, since April 2013 each was frozen in cash terms, resulting in their being phased out completely by 2016/17.

[32] In 1999/2000, the two allowances went up by £130 and £200 in real terms, respectively. In 2003/04 the allowances went up by £400 and £240 in real terms. For more details see, HMRC, *Income tax personal allowances and reliefs 1990/91 to 2020/21*, April 2020.

2. The transferable tax allowance

2.1 Introduction of the allowance

In July 2007 the Conservative think tank, the Centre for Social Justice, published a report on social breakdown, recommending "the transferring of tax allowances between married couples … to support the institution of marriage because of its proven advantages to children and the wider society."[33] In the next months the Conservative Party gave a general commitment to 'recognising' marriage in the tax system,[34] and in the 2010 General Election it proposed that couples and civil partners who were basic rate taxpayers should be entitled to transfer just part of their allowance – worth, in effect, up to £150.[35]

Initially the new Coalition Government did not make any specific proposals for transferable allowances, and the issue was not mentioned in its first Budget on 22 June 2010.[36] On a number of occasions over the next three years, Ministers underlined that the Government was committed to bringing forward proposals to recognise marriage through the tax and benefits system,[37] but it was not until September 2013 that the Prime Minister announced that from April 2015 spouses and civil partners would be allowed to transfer £1,000 of their own allowance to their partner – provided neither of them were higher rate taxpayers.[38]

In his 2014 Budget speech the then Chancellor, George Osborne, announced that the personal allowance would be set at £10,500 from April 2015, and that the transferable allowance would be increased in line with this:

> When we came to office, the personal tax allowance was just £6,500. In less than three weeks' time, it will reach £10,000 … Next year, there will be no income tax at all on the first £10,500 of your salary—£10,500 tax free and £800 less in tax every year for the typical taxpayer. Our increases in the personal allowance will have lifted over 3 million of the lowest paid out of income tax altogether, and I am incredibly proud of what we have achieved … I am linking the rate of the transferable tax allowance for married couples to the personal allowance, so it will also rise to £1,050—help for 4 million families that they will take away and that we are proud to provide.[39]

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33 Social Justice Policy Group, *Breakthrough Britain: Volume 1 – Family Breakdown*, July 2007 pp70-1

34 Conservative Party, *Repair : plan for social reform*, 2008 p41

35 Institute for Fiscal Studies press release, *Conservatives to recognise one third of marriages in the tax system*, 9 April 2010

36 The agreement underpinning the Coalition simply stated that Liberal Democrat MPs would be allowed to abstain from voting for transferable allowances (HM Government, *The Coalition: our programme for government*, 20 May 2010 p30).

37 For example, HC Deb 11 December 2012 cc137-8; HC Deb 18 March 2013 c423W; HC Deb 2 July 2013 c881

38 HM Treasury press notice, *Marriage Transferable Tax Allowance announced*, 30 September 2013. In his 2013 Autumn Statement Mr Osborne confirmed that the allowance would be introduced from April 2015 (HC Deb 5 December 2013 c1111).

39 HC Deb 19 March 2014 c792

Details of how the new transferable allowance would work were given in a note published alongside the Budget:

> Legislation will be introduced in Finance Bill 2014 to provide that from the 2015-16 tax year, a spouse or civil partner who is not liable to income tax because their income is below their personal allowance or who is liable to income tax at the basic rate, dividend ordinary rate or the starting rate for savings will be able to elect to transfer £1,050 of their personal allowance to their spouse or civil partner. There will be a corresponding reduction to the transferring spouse's personal allowance.
>
> A spouse or civil partner who is liable to income tax at the basic rate, dividend ordinary rate or the starting rate for savings will receive the transferred personal allowance. The transferred allowance will be given effect as a reduction to the recipient's income tax liability at the basic rate of tax.
>
> From 2016-17 the transferable amount will be 10 per cent of the basic personal allowance. Further provisions will account for changes to individuals' marital or civil partnership status such as divorce, dissolution and death. Married couples or civil partnerships entitled to claim the married couple's allowance will not be entitled to make a transfer …
>
> HMRC is developing the process by which the married couple or civil partners will transfer their personal allowance … The lead option is that one party will apply on-line to transfer the allowance to their spouse or civil partner and HMRC will notify the recipient about the subsequent change to their tax code.

This note also gave details of the cohort of taxpayers who would benefit from this measure:

> 4.2 million non-taxpayer/basic-rate taxpayer married couples stand to gain an average £197 between them; most non-taxpayers will be no worse off while the basic rate taxpayer will gain. Of the 4.2 million potential gaining couples, around 310,000 individuals may lose by an average of £104 in 2015-16, where their reduced allowance brings them into tax. However in these cases they will gain as a couple. Couples where both partners are basic-rate taxpayers will in almost all cases see no gain or loss … Couples will benefit as a unit, but the majority (84 per cent) of individual gainers will be male. This reflects earning patterns in the population more generally. 35 per cent of couples who stand to gain will be above state pension age.[40]

2.2 Applying for the allowance

On 20 February 2015 HM Treasury announced that eligible couples would be entitled to register for the new allowance, using a new online service:

> The Government has today opened registration for the new Marriage Allowance, a tax break for married couples, helping them save up to £212 a year. Applying online is straightforward. Couples can register their interest to receive the Allowance now at: gov.uk/marriageallowance.

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40 HMRC, *Transferable tax allowances for married couples and civil partners – tax information & impact note*, 19 March 2014. Provision for the new allowance was made by s11 of *FA2014*. It is consolidated in ss55A-E of the *Income Tax Act 2007*.

> From 6 April 2015, more than 4 million married couples and 15,000 civil partnerships will be eligible for the tax break …
>
> From April, HMRC will contact those who have already registered for the Marriage Allowance to apply. People can register at any point in the tax year and still receive the full benefit of the allowance. Applying online is simple. One person in a couple will apply online to transfer the allowance to their spouse or civil partner, and HMRC will tell the recipient about the change to their Pay As You Earn (PAYE) tax code.

When this was announced, the charity TaxAid noted, "although there is currently a lot of publicity for the allowance, the full system is not yet up and running, and is unlikely to be ready before the summer of 2015. Those who register their interest now, will be invited to make an on-line claim in April, after the start of the new tax year. A service for those unable to claim on-line is due to be rolled out later."[41] The Low Incomes Tax Reform Group (LITRG) which also offers tax advice for those on lower incomes, also pointed out that couples could **only** register for the allowance online:

> There is no way to register your interest in the marriage allowance without using the internet. Similarly, you will only be able to apply for the marriage allowance online. On current plans you will not be able to apply by phone or post. In addition, before being able to make the application, you will probably have to use the Government's new 'Verify' system, which is also an online system, so that you can prove who you are. You will have to do this by answering some questions that only you know the answer to. You will also be asked to enter a code you receive on your mobile phone, by email, or through a call to your landline.
>
> By the Government's own admission, 18% of adults in the UK cannot use the internet, so the lack of options here is quite surprising. We will continue to encourage Government to introduce a postal or telephone application service to ensure that everybody who is eligible to receive the marriage allowance can actually do so. However, in the meantime they have confirmed that they will 'provide support to customers who need it' and we assume this will be in the form of 'assisted digital' support. This means that you will be able to access a service face-to-face, by phone, or in another appropriate non-digital way, with someone either inputting your data into the digital system on your behalf, or helping you put your data into the digital service yourself.[42]

In June 2015 the charity issued some updated guidance, which noted that some taxpayers were having difficulties using the online service, because of the process it used to confirm the applicants' identities:

> At present an individual can only claim to transfer the marriage allowance to their partner by registering online through *Gov.uk*. The individual will then be asked to use Gov.uk's *Verify* procedure to confirm their identity. There are certain circumstances in which an individual will not be able to use Verify, for example the individual must have a UK passport or driving licence. If the individual is unable to confirm their identity using Verify they will be advised to call HMRC's PAYE helpline on *0300 200 3300*. The individual who telephones HMRC must be the partner who is

[41] TaxAid press notice, *Marriage Allowance – transferring part of your tax free entitlement*, 20 February 2015
[42] LITRG press notice, *New tax relief for marriage available online*, 27 February 2015

> transferring part of their allowance and they will need to have details of both their own and their partner's National Insurance number, date of birth and address.
>
> From a future date it will be possible to claim the allowance without first registering with GOV.UK and we will provide an update at that time.[43]

The application process was also discussed in a piece which appeared in the technical journal, *Taxation*; the author made the point that any delays in the issuance of new tax codes could easily be rectified later in the year – so that this tax relief would be backdated for any months already passed.[44]

In November 2015 the Government confirmed that couples would be able to make applications by calling HMRC's helpline for income tax enquiries.[45] The number is, 0300 200 3300, and is open 8am to 6pm, Monday to Friday. HMRC advise that phone lines are less busy before 10am.[46] HMRC also provide an online calculator to allow couples to make sure that claiming the allowance would be financially beneficial.

LITRG publish further detailed guidance on claiming the marriage allowance on their site; this underlines that there will be some circumstances where couples may be worse off by taking up the allowance. An extended extract is reproduced below (note that the examples are based on the figures for 2020/21 – when the personal allowance was £12,500 and the marriage allowance was £1,250):

> **What is the marriage allowance?**
>
> This allowance is also known as the transferable tax allowance for married couples and civil partners. It should not be confused with the married couple's allowance. You can transfer some of your personal allowance to your spouse or civil partner, if you both meet certain conditions. The marriage allowance is available to all spouses and civil partners. However, if one of you was born before 6 April 1935, you should claim the married couple's allowance instead as it will usually be more beneficial.
>
> The marriage allowance for 2020/21 is £1,250 and it enables a spouse or civil partner who is not liable to income tax at a rate higher than the basic rate (or higher than the intermediate rate if a Scottish taxpayer) to give up £1,250 of their personal allowance to provide their spouse or civil partner with a tax credit of £250. The recipient spouse or civil partner also must not be liable to income tax above the basic rate (intermediate rate if a Scottish taxpayer). When calculating the highest tax rate at which either spouse is liable you should ignore the dividend nil rate band (dividend allowance) and consider whether the dividend income would be liable to the dividend upper rate (32.5%) were it not for the dividend nil rate band. …
>
> You can apply for marriage allowance online on the GOV.UK website. If you cannot claim online, you can telephone HMRC on

43 LITRG press notice, *Marriage allowance – an update on the application process*, 1 June 2015

44 "Is it really worth it?", *Taxation*, 10 June 2015

45 PQ14045, 3 November 2015. LIITRG press notice, *HMRC announce that they can now accept claims for the new marriage allowance by telephone as well as online*, 4 November 2015

46 HMRC, *Income Tax: general enquiries*, ret'd March 2021

0300 200 3300 to make the claim or download our marriage allowance template letter to make the claim.

You can see how the marriage allowance works in the example Marjorie.

Marjorie – marriage allowance

This example uses UK income tax rates and bands; the position may be different if you are a Scottish taxpayer.

Marjorie is married to Carl. Marjorie works part-time and her salary is £9,000 for 2020/21. Carl works full-time and his salary is £21,500 in 2019/20. Marjorie and Carl are both eligible for the full personal allowance of £12,500. As Marjorie's income is only £9,000, she is not using £3,500 of her personal allowance.

Under the rules for the marriage allowance, Marjorie can choose to transfer £1,250 of her unused personal allowance to Carl.

Carl's tax for 2019/20 is therefore calculated as follows:

	£
Income	21,500
Less: Allowance	12,500
Taxable income	9,000
Income tax due (at 20%)	1,800
Marriage allowance tax credit	250
Final tax liability	1,550

…

If you make the claim before 6 April 2021 for the tax year 2020/21, the claim continues until either you withdraw it or the recipient spouse or civil partner does not obtain a tax advantage. On the other hand, if you make the claim after the end of the relevant tax year, it will only have effect for the tax year to which the claim relates. So, if you make a claim after 5 April 2021 for 2020/21, you would need to make another claim for 2021/22 if appropriate.

The claim can be made up to four years from the end of the relevant tax year. In other words, a claim for marriage allowance for the tax year 2019/20 must be made by 5 April 2024. Since 29 November 2017, it has been possible to make a claim even if one of the parties to the marriage or civil partnership is no longer alive – for more information, see our page Death of a spouse or civil partner. The first year that the marriage allowance was available to be claimed was 2015/16. Any claims for that year had to be made by 5 April 2020.

If you wish to withdraw the claim, for example because it is no longer beneficial, you should note that only the individual who originally made the claim (by allowing their personal allowance to be reduced) may withdraw the election. The withdrawal of the election then only takes place from the start of the following tax year. For example, let us assume a marriage allowance claim has been in place since 2015/16 and is continuing. If the election is withdrawn in August 2020, the marriage allowance claim will continue for the tax year 2020/21, but then not be applied from 6 April 2021.

Warning: if you decide to claim the marriage allowance you must claim **all** of it (£1,250 in 2020/21). In some cases, this could increase your total tax bill as a couple and leave you worse off overall. This may happen if your income is more than 90% of the personal allowance (that is, more than £11,250 in 2020/21) and your spouse or civil partner's income is less than 110% of the personal allowance (that is, less than £13,750 in 2020/21).

You can see how this can happen in the example John.

John – transferable tax allowance

This example uses UK income tax rates and bands; the position may be different if you are a Scottish taxpayer.

John and Andrew, both born in 1960, are civil partners. John works part-time and his salary is £11,900. Andrew normally works full time, but in 2020/21 he takes some unpaid leave and his salary for the year is £12,950.

If John keeps his full personal allowance his tax bill is £0 (£11,900 is less than £12,500) whilst Andrew's is £90 (£12,950 - £12,500 = £450 at 20%). So, as a couple, their total tax bill is £90.

If John transfers £1,250 of his personal allowance to Andrew then his tax bill will increase to £130 (£11,900 - £11,250 = £650 at 20%) whilst Andrew's will reduce to £0 (£90 original liability less tax credit £250; balance of tax credit is not repayable), making their total tax bill £130. They have paid £40 more tax as a couple by John transferring the marriage allowance than they would have done if John had not made the transfer.

… If your incomes are variable, it may be better to wait until you are certain before making the application to transfer.[47]

2.3 Claims on behalf of deceased partners

In the Autumn 2017 Budget the Government announced that provision would be made to allow claims for the marriage allowance "where a partner has died before the claim was made."[48]

Further details were given in a tax information & impact note:

Background to the measure

The government introduced Marriage Allowance (MA) in 2015 to recognise marriage through the tax system. MA allows individuals to transfer 10% of their personal allowance to their spouse or civil partner where the recipient is not a higher rate or additional rate taxpayer. Individuals are able to backdate claims for up to four years. Currently, the legislation does not allow transfers of personal allowance on behalf of deceased spouses and civil partners, or from a surviving partner to a deceased partner.

Detailed proposal

Operative date : This measure will come into force on 29 November 2017.

Current law : Sections 55A to 55E of the *Income Tax Act (2007)* provide for the transfer of a portion of income tax personal

47 LITRG, *What tax allowances am I entitled to?*, 12 March 2021; in particular, the section of this guidance entitled, *Can I transfer my allowances to my spouse or civil partner?*

48 *Autumn Budget 2017*, HC 587, November 2017 para 3.6; HM Treasury, *Overview of tax legislation and rates*, 22 November 2017, Annex A : Rates and allowances

> allowances for married couples and civil partners. Section 55C(1)(a) provides that an individual may make an MA election only if they are married to, or in a civil partnership with, the same person both 'for the whole or part of the tax year concerned' and 'when the election is made'.
>
> **Proposed revisions :** Legislation will be introduced in *Finance Bill 2017-18* to amend Sections 55B to 55D of the *Income Tax Act 2007*. This will enable an individual whose spouse or civil partner is deceased to make an application for MA, and for the claim to be backdated for up to four years where the entitlement conditions are met.[49]

There was relatively little mention of this measure in the coverage of the Budget, although LITRG issued a press notice at the time, welcoming the announcement:

> The Low Incomes Tax Reform Group has warmly welcomed today's announcement … Anne Fairpo, chairman of LITRG, said: "This announcement corrects what has long been perceived as a harsh anomaly in the way marriage allowance claims are structured. As the existence of the allowance is not widely known, it often happens that the first time a couple hears about it is after one of them has died and the question of a marriage allowance claim arises during the administration of their estate. But by then it is too late, because up to now the law has provided that a couple must be married or in a civil partnership at the time of the claim. Today's welcome change of heart by the Government will remove this obstacle, and the four-year backdating will enable couples who have been refused claims by the surviving spouse or civil partner to re-apply."[50]

Provision to this effect is made by s6 of the *Finance Act 2018*.[51]

2.4 Take-up and cost of the allowance

Since the introduction of the new allowance some concerns have been raised about the level of take-up.[52] In 2018/19 there were 1.78m claimants for the allowance, although around 4.2m couples were eligible to claim it, although the Government has noted that couples will be able to claim the allowance retrospectively for up to four years.[53] In answer to a PQ in April 2019 Treasury Minister Mel Stride gave some details of what HMRC were doing to increase uptake:

> **Jim Shannon** : To ask the Chancellor of the Exchequer, what steps he is taking to increase the uptake of Married Tax Allowance.
>
> **Mel Stride** : Marriage Allowance was introduced in April 2015, to recognise the importance of marriage in the tax system and support those on low incomes by helping them keep more of the money they earn.

49 HMRC, *Income Tax: Marriage Allowance claims on behalf of deceased partners*, 22 November 2017. HMRC state that the cost of this measure is negligible.

50 LITRG press notice, *Tax campaigners hail today's breakthrough on claims for marriage allowance by bereaved spouses*, 22 November 2017

51 It was briefly debated, and agreed, without a vote at the Committee stage of the Finance Bill on 9 January 2018 (PBC, *First Sitting*, 9 January 2018 cc20-22).

52 PQ24585, 2 February 2016; PQ52103, 14 November 2016.

53 PQ HL16793, 15 July 2019

> HM Revenue and Customs (HMRC) ran a number of advertising campaigns to raise awareness of the savings Marriage Allowance can bring to eligible couples. The first campaign ran between October 2015 and March 2016, and a second ran between November 2016 and March 2017. A variety of channels were used including press, radio adverts, and digital advertising. Most recently, HMRC ran a social media campaign to raise awareness of Marriage Allowance and issued a press release in February 2019.
>
> HMRC continues to promote the availability of Marriage Allowance through ongoing and targeted communications.
>
> Information on how to claim Marriage Allowance is available on the GOV.UK website and it can be claimed through the personal tax account, on GOV.UK, or by telephone to HMRC. Any couples who have yet to claim will not lose out as they have until 5 April 2020 to backdate it to 2015 where the eligibility conditions are met.[54]

Initially HMRC had estimated that the annual cost of the allowance would be £495m in 2015/16 rising to £730m by 2019/20.[55] In April 2017 the Government stated that its 'current best estimate assessment of the initial cost of this allowance' was £140m in 2015/16."[56]

HMRC's most recent estimates are that the allowance cost £540m in 2019/20. HMRC's latest survey of the cost of various tax reliefs gives this short overview:[57]

> **Marriage Allowance**
>
> Description: Gives a tax reduction to a person whose spouse or civil partner has elected for a reduced personal allowance.
>
> Commentary on differences between outturn cost and original forecast:

	2015-16	2016-17	2017-18	2018-19	2019-20
Forecast cost (£m)	495	600	660	775	
Cost estimate (£m)	350	390	440	*480*	*540*
Difference	-145	-210	-220	-295	
Percentage difference	-29%	-35%	-33%	-38%	

> Outturn costs of this relief have been consistently lower than those originally forecast. The original forecast of costs was certified by the Office of Budget Responsibility but was considered highly uncertain due to the challenge of estimating the eligible population and take-up of the relief.
>
> The main driver of the differences shown is a lower than forecast take up of the allowance when introduced in 2015-16. Though the number of claimants have since increased over time, the number of claimants is still below that originally forecast. This helps to explain why the actual cost of Marriage Allowance continues to be below the originally forecast cost. As Marriage Allowance can be backdated, costs will continue to be revised, even for past years.

54 PQ239235, 9 April 2019
55 *Budget 2015*, HC 1093, March 2015 p67 (Table 2.2 – item bf).
56 PQ HL6306, 5 April 2017
57 HMRC, *Bulletin: estimated cost of tax reliefs*, October 2020 p46

BRIEFING PAPER
Number 870, 19 March 2021