



TAXREP 06/14

(ICAEW REP 18/14)

ICAEW TAX REPRESENTATION

DRAFT LEGISLATION FINANCE BILL 2014

Comments submitted on 4 February 2014 by ICAEW Tax Faculty in response to HM Revenue & Customs draft legislation *Transferable tax allowances for married couples and civil partners* published on 10 December 2013

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INTRODUCTION

1. ICAEW welcomes the opportunity to comment on the draft legislation [Transferable tax allowances for married couples and civil partners](#) published by HM Revenue & Customs (HMRC) on 10 December 2013.
2. We should be happy to discuss any aspect of our comments and to take part in all further consultations on this area.
3. Information about the Tax Faculty and ICAEW is given below. We have also set out, in Appendix 1, the Tax Faculty's Ten Tenets for a Better Tax System by which we benchmark proposals to change the tax system.

WHO WE ARE

4. ICAEW is a world leading professional membership organisation that promotes, develops and supports over 142,000 chartered accountants worldwide. We provide qualifications and professional development, share our knowledge, insight and technical expertise, and protect the quality and integrity of the accountancy and finance profession.
5. As leaders in accountancy, finance and business our members have the knowledge, skills and commitment to maintain the highest professional standards and integrity. Together we contribute to the success of individuals, organisations, communities and economies around the world.
6. The Tax Faculty is the voice of tax within ICAEW and is a leading authority on taxation. Internationally recognised as a source of expertise, the faculty is responsible for submissions to tax authorities on behalf of ICAEW as a whole. It also provides a range of tax services, including TAXline, a monthly journal sent to more than 8,000 members, a weekly newswire and a referral scheme.

MAJOR POINTS

7. Whilst we welcome measures that reduce the tax burden for the less well off in society we are concerned at the level of administration required by this proposal. Whilst the measure is available to all it is anticipated that 35% of couples who stand to gain will be above state pension age. Many within this group will find the administrative burden of claiming the allowance too much.
8. This measure will save a couple a maximum of £200 in the first year, 2015/16, but will involve both parties in having to make a claim/election and could potentially cause the recipient of the transferred allowance to be included within self-assessment.
9. The partner electing to transfer part of their allowance may have income below the personal allowance level but once the allowance has been transferred they may become a taxpayer. This would involve them in having to deregister for gross interest at the banks and building societies where they hold savings and then reclaim tax paid.
10. It is only available to couples where one has income below the personal allowance level and the other is a basic rate taxpayer. As the threshold for higher rate tax reduces, the policy of recent years, the numbers benefiting from the transferable allowance will fall.
11. In response to the complexities of income related age allowance that allowance is being phased out but it would appear it is being replaced by an even more complex allowance.

12. The election remains in force whilst the conditions are still met but it may not be apparent until after the tax year has ended that the earnings thresholds have been exceeded.
13. The measure is not consistent with independent taxation introduced in 1990.
14. We have no comments on the draft legislation.

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APPENDIX 1

ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.
4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see [icaew.com/en/technical/tax/tax-faculty/~media/Files/Technical/Tax/Tax%20news/TaxGuides/TAXGUIDE-4-99-Towards-a-Better-tax-system.ashx](https://www.icaew.com/en/technical/tax/tax-faculty/~media/Files/Technical/Tax/Tax%20news/TaxGuides/TAXGUIDE-4-99-Towards-a-Better-tax-system.ashx))