



Finance Act 2018

2018 CHAPTER 3

PART 1 **U.K.**

DIRECT TAXES

Income tax: rates and allowances

6 Transfer of tax allowance after death of spouse or civil partner **U.K.**

- (1) Chapter 3A of Part 3 of ITA 2007 (transferable tax allowance) is amended as follows.
- (2) Section 55B (tax reduction: entitlement) is amended in accordance with subsections (3) to (5).
- (3) In subsection (2) (conditions for entitlement to tax reduction)—
 - (a) for paragraph (a) (individual is spouse or civil partner of maker of election in force under section 55C) substitute—

“(a) the individual is the gaining party (see section 55C(1)(a)) in the case of an election under section 55C which is in force for the tax year,” and
 - (b) in paragraph (d), for “individual's” substitute “relinquishing”.
- (4) After subsection (5) insert—

“(5A) In this section “the relinquishing spouse or civil partner”, in relation to an election under section 55C, means the individual mentioned in section 55C(1) (a) by whom, or by whose personal representatives, the election is made.”
- (5) In subsection (6) (reduced personal allowance for transferor)—
 - (a) after “under subsection (1)” insert “ by reference to an election under section 55C ”, and
 - (b) for “individual's” substitute “relinquishing”.
- (6) Section 55C (elections to reduce personal allowance) is amended in accordance with subsections (7) and (8).

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2018, Section 6. (See end of Document for details)

- (7) In subsection (1)(a) (individual may make election if married or in civil partnership)—
- (a) after “the same person” insert “ (“the gaining party”) ”, and
 - (b) in sub-paragraph (ii), after “when the election is made” insert “ or, where the election is made after the death of one or each of them, when they were last both living ”.
- (8) After subsection (4) insert—
- “(5) The personal representatives of an individual may make any election for the purposes of section 55B that the individual (if living) might make in relation to—
- (a) the tax year in which the individual dies, or
 - (b) an earlier tax year.”
- (9) Section 55D (procedure for elections under section 55C) is amended in accordance with subsections (10) and (11).
- (10) In subsection (3) (elections which are not automatically continued in force for subsequent years), after “is made after the end of the tax year to which it relates” insert “ or is made after the death of either of the spouses or civil partners ”.
- (11) In subsection (4) (election may be withdrawn only by individual who made it), after “by whom the election was made” insert “ ; an election made by an individual's personal representatives may not be withdrawn ”.
- (12) The amendments made by this section—
- (a) are to be treated as having come into force on 29 November 2017,
 - (b) have effect in relation to elections made on or after that day, and
 - (c) so have effect even where a relevant death occurred on or before that day.

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 2018, Section 6.