



Income Tax Act 2007

2007 CHAPTER 3

PART 3

PERSONAL RELIEFS

[^{F1}CHAPTER 3A

TRANSFERABLE TAX ALLOWANCE FOR MARRIED COUPLES AND CIVIL PARTNERS

[^{F1}Election to reduce personal allowance

Textual Amendments

- F1** Pt. 3 Ch. 3A inserted (with effect in accordance with s. 11(12) of the amending Act) by [Finance Act 2014 \(c. 26\), s. 11\(2\)](#)

55C Election to reduce personal allowance

- (1) An individual may make an election for the purposes of section 55B if—
- (a) the individual is married to, or in a civil partnership with, the same person [^{F2}(“the gaining party”)] —
 - (i) for the whole or part of the tax year concerned, and
 - (ii) when the election is made [^{F3}or, where the election is made after the death of one or each of them, when they were last both living],
 - (b) the individual is entitled to a personal allowance under section 35 ^{F4}... for that tax year,
 - (c) assuming the individual's personal allowance was reduced as set out in section 55B(6), the individual would not for that year be liable to tax at a rate other than the basic rate, [^{F5}the default basic rate, the savings basic rate,]^{F6}the dividend nil rate,]^{F7}the Scottish basic rate,]^{F8}a Scottish rate below the Scottish basic rate, the Scottish intermediate rate,]^{F9}the Welsh basic rate,]

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- the dividend ordinary rate [^{F10}, the savings nil rate] or the starting rate for savings,
- [where on that assumption the individual would for the tax year be liable to tax at the dividend nil rate, the individual on that assumption would for that year neither be liable to tax at the dividend upper rate, nor be liable to tax at the dividend additional rate, if section 13A (dividend nil rate) were omitted,] and
- (d) where the individual meets the requirements of section 56 (residence) for the tax year by reason of meeting the condition in subsection (3) of that section, the individual meets the condition in subsection (2) of this section.
- (2) The condition is that the individual's hypothetical net income for the tax year concerned is less than the amount of the personal allowance to which the individual is entitled for that tax year under section 35 ^{F12}....
- (3) For the purposes of subsection (2), an individual's "hypothetical net income" is the amount that would be that individual's net income calculated at Step 2 of section 23 if that individual's income tax liability were calculated on the basis that the individual—
- (a) was UK resident for the tax year concerned (and the year was not a split year),
 - (b) was domiciled in the United Kingdom for that tax year,
 - (c) in that tax year, did not fall to be regarded as resident in a country outside the United Kingdom for the purposes of double taxation arrangements having effect at the time, and
 - (d) for that tax year, had made a claim for any available relief under section 6 of TIOPA 2010 (as required by subsection (6) of that section).
- (4) An individual's hypothetical net income for a tax year is, to the extent that it is not sterling, to be calculated by reference to the average exchange rate for the year ending on 31 March in the tax year concerned.
- [The personal representatives of an individual may make any election for the purposes ^{F13}(5) 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.]

Textual Amendments

- F2** Words in s. 55C(1)(a) inserted (retrospective and with effect in accordance with s. 6(12)(b)(c) of the amending Act) by [Finance Act 2018 \(c. 3\), s. 6\(7\)\(a\)\(12\)\(a\)](#)
- F3** Words in s. 55C(1)(a)(ii) inserted (retrospective and with effect in accordance with s. 6(12)(b)(c) of the amending Act) by [Finance Act 2018 \(c. 3\), s. 6\(7\)\(b\)\(12\)\(a\)](#)
- F4** Words in s. 55C(1)(b) omitted (with effect in accordance with s. 5(11) of the amending Act) by virtue of [Finance Act 2015 \(c. 11\), s. 5\(9\)](#)
- F5** Words in s. 55B(3) inserted (30.11.2016) (with effect in relation to tax year 2017-18 and subsequent tax years) by [Finance Act 2016 \(c. 24\), s. 6\(16\)\(24\)](#); S.I. 2016/1161, [regs. 2, 3](#)
- F6** Words in s. 55C(1)(c) inserted (with effect for the tax year 2016-17 and subsequent years) by [Finance Act 2016 \(c. 24\), s. 5\(7\)\(a\)\(10\)](#)
- F7** Words in s. 55C(1)(c) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Scottish Rate of Income Tax \(Consequential Amendments\) Order 2015 \(S.I. 2015/1810\), arts. 1\(1\), 14\(4\)](#)
- F8** Words in s. 55C(1)(c) inserted (6.4.2018) by [The Scottish Rates of Income Tax \(Consequential Amendments\) Order 2018 \(S.I. 2018/459\), arts. 1\(2\), 6\(2\)](#)

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- F9** Words in s. 55C(1)(c) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Devolved Income Tax Rates \(Consequential Amendments\) Order 2019 \(S.I. 2019/201\)](#), arts. 1(1), [12\(7\)](#)
- F10** Words in s. 55C(1)(c) inserted (with effect for the tax year 2016-17 and subsequent years) by [Finance Act 2016 \(c. 24\)](#), s. [4\(8\)\(17\)](#)
- F11** S. 55C(1)(ca) inserted (with effect for the tax year 2016-17 and subsequent years) by [Finance Act 2016 \(c. 24\)](#), s. [5\(7\)\(b\)\(10\)](#)
- F12** Words in s. 55C(2) omitted (with effect in accordance with s. 5(11) of the amending Act) by virtue of [Finance Act 2015 \(c. 11\)](#), s. [5\(9\)](#)
- F13** S. 55C(5) inserted (retrospective and with effect in accordance with s. 6(12)(b)(c) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), s. [6\(8\)\(12\)\(a\)](#)

55D Procedure for elections under section 55C

- (1) An election under section 55C is to be made not more than 4 years after the end of the tax year to which it relates.
- (2) If the conditions in paragraphs (a) to (d) of section 55C(1) continue to be met, an election continues in force in each subsequent tax year unless—
 - (a) subsection (3) applies,
 - (b) the election is withdrawn, or
 - (c) it ceases to have effect under subsection (5).
- (3) Where an election is made after the end of the tax year to which it relates [^{F14}or is made after the death of either of the spouses or civil partners], the election has effect for the tax year to which it relates only (and accordingly does not continue in force for subsequent tax years under subsection (2)).
- (4) An election may be withdrawn only by a notice given by the individual by whom the election was made [^{F15}; an election made by an individual's personal representatives may not be withdrawn].
- (5) If an individual's spouse or civil partner does not obtain a tax reduction under section 55B in respect of a tax year in which an election is in force the election ceases to have effect for subsequent tax years; but this does not prevent an individual making a further election for the purposes of section 55B(2)(a) (whether or not in relation to the same marriage or civil partnership).
- (6) The withdrawal of an election under subsection (4) does not, except in the cases dealt with by subsection (7), have effect until the tax year after the one in which the notice is given.
- (7) The withdrawal of an election under subsection (4) has effect for the tax year in which the notice is given if—
 - (a) in a case where the individual concerned met the condition in section 55C(1) (a) by reason of being married, the marriage has come to an end in that tax year, or
 - (b) in a case where the individual concerned met the condition in section 55C(1) (a) by reason of being in a civil partnership, the civil partnership has come to an end in that tax year.
- (8) For the purposes of subsection (7)(a), a marriage comes to an end if any of the following is made in respect of it—

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- [^{F16}(a) in England and Wales, a divorce order which has been made final, a nullity of marriage order which has been made final, a judicial separation order or a corresponding decree,]
- (b) in Scotland, a decree of divorce, a declarator of nullity or a decree of separation [^{F17}or]
- [^{F18}(c) in Northern Ireland, a decree absolute of divorce, a decree of nullity of marriage or a decree of judicial separation.]
- (9) For the purposes of subsection (7)(b), a civil partnership comes to an end if any of the following is made in respect of it—
- (a) a dissolution order or nullity order, which has been made final,
 - (b) a separation order, or
 - (c) in Scotland, a decree of dissolution, a declarator of nullity or a decree of separation.
- (10) A notice under subsection (4) must—
- (a) be given to an officer of Revenue and Customs, and
 - (b) must be in the form specified by the Commissioners for Her Majesty's Revenue and Customs.
- (11) Paragraph 3(1)(b) of Schedule 1A to TMA 1970 (amendment of claims and elections) does not apply to an election under section 55C.]
- [^{F19}(12) In subsection (8) “corresponding decree” means any of the following—
- a decree absolute of divorce;
 - a decree absolute of nullity of marriage;
 - a decree of judicial separation.]

Textual Amendments

- F14** Words in s. 55D(3) inserted (retrospective and with effect in accordance with s. 6(12)(b)(c) of the amending Act) by [Finance Act 2018 \(c. 3\), s. 6\(10\)\(12\)\(a\)](#)
- F15** Words in s. 55D(4) inserted (retrospective and with effect in accordance with s. 6(12)(b)(c) of the amending Act) by [Finance Act 2018 \(c. 3\), s. 6\(11\)\(12\)\(a\)](#)
- F16** S. 55D(8)(a) substituted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\), s. 8\(1\)\(8\), Sch. para. 57\(2\)\(a\)](#); S.I. 2022/283, reg. 2
- F17** Word in s. 55D(8)(b) inserted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\), s. 8\(1\)\(8\), Sch. para. 57\(2\)\(b\)](#); S.I. 2022/283, reg. 2
- F18** S. 55D(8)(c) inserted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\), s. 8\(1\)\(8\), Sch. para. 57\(2\)\(c\)](#); S.I. 2022/283, reg. 2
- F19** S. 55D(12) inserted (6.4.2022) by [Divorce, Dissolution and Separation Act 2020 \(c. 11\), s. 8\(1\)\(8\), Sch. para. 57\(3\)](#); S.I. 2022/283, reg. 2

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 24B inserted by [2023 c. 30 Sch. 2 para. 10\(3\)](#)
- s. 788(7) inserted by [2007 c. 29 Sch. 21 para. 161\(b\)](#) (The amending provision was repealed before coming into force.)