

June 2011

Finance (No.3) Bill 2011

Background:

Finance (No.3) Bill 2011 was published on 9th June 2011. It contained the necessary legislative changes to give effect to the taxation changes arising from the Civil Partnership and Certain Rights and Obligations of Cohabitants (CPCROC) Act 2010. The Bill is expected to be enacted in July once debated and passed by both Houses of the Oireachtas and signed into law by the President.

The key elements of the CPCROC Act 2010 are:

- The establishment of a civil partnership registration scheme for same-sex couples.
- The conditions and manner in which these civil partnerships may be dissolved.
- The recognition of certain foreign-registered same-sex partnerships as civil partnerships from 13th January 2011.
- A redress scheme for long-term opposite- and same-sex co-habiting couples who are neither married nor registered in a civil partnership.

Taxation changes for same-sex couples in civil partnerships:

The broad aim of the Bill is to ensure that couples in civil partnerships enjoy similar tax treatment to that which currently applies to married couples.

Couples in a civil partnership will be entitled to

- Claim either joint or separate assessment to income tax;
- Share tax credits and standard rate band between members of the couple in the same way as married couples currently do;
- Claim the Home Carers Credit, if applicable;
- Be exempt from income tax if the couple's income is less than the relevant limit;
- Be exempt from DIRT if either member of the couple is over 65 and the couple's joint income is less than the relevant limit;

- Qualify for the same tax treatment as married couples currently do where one member of the couple dies;
- Qualify for the same tax treatment as married couples currently do in divorce/ separation situations, where the civil partnership is legally dissolved;
- Qualify for an exemption from gift/ inheritance tax on all gifts/ inheritances passing between members of the couple;
- Qualify for an exemption from stamp duty and capital gains tax on gifts passing between members of the couple.

This will commence from the tax-year 2011 onwards.

These changes do not apply to long-term opposite-sex and same-sex co-habiting couples who are not in a civil partnership.

Taxation changes for long-term cohabiting couples not in civil partnerships:

The taxation changes in the Bill for co-habiting couples who are not in a civil partnership are

- to grant relief to the payor for Court-ordered maintenance payments made to a financially dependant former cohabitant in certain circumstances, and
- to exempt from capital gains tax, gift/ inheritance tax and stamp duty transfers of property made as a result of Court-ordered property adjustment orders.

These changes only apply on the break-up of a cohabiting arrangement where the relationship has been ongoing for a period of at least 5 years or for at least 2 years where the co-habitants are parents of dependant children.

If you require any further information or assistance in relation to the above, please contact us.

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