

M48 RETIREMENT ANNUITY ALLOWANCE FOR MARRIED COUPLES (sections 36, 47, 157A and 199A)

Introduction

Following changes made to the Law for 2011 and succeeding years, the maximum amount of relief which may be given to a taxpayer in any year of charge for a contribution to an approved retirement annuity scheme or approved retirement annuity trust scheme (herein referred to collectively as “RATS”) is the lower of 100% of the income of the taxpayer and his spouse, and such limit as is set by the Treasury & Resources Department. That limit, which applies to the overall contributions or premiums made to all approved schemes (RATS and approved occupational pension schemes), is currently £50,000. For the avoidance of doubt, this limit is only for the purposes of tax relief, and does not prevent larger contributions being made to the relevant schemes, subject to the rules of the relevant schemes.

The conditions for entitlement to a retirement annuity allowance (“RAA”) are set out in paragraph 7 of the Second Schedule of the Budget Billet. Prior to the changes to the Second Schedule approved at the 2013 October States meeting ([Billet XXI, 2013](#)), which come into effect on 1 January 2014, paragraph 7(2) stated that the total allowable premiums or contributions (for tax relief purposes) are those paid by the claimant or his wife during the year of computation. Paragraph 7(3) then restricted the RAA where in aggregate any qualifying premiums or contributions exceeded either 100% of the income of the claimant and his wife or the limit of £50,000. On that basis, a strict interpretation of the position, for Years of Charge 2011-2013 inclusive, would be that in the case of married couples, the £50,000 maximum still applied, i.e. they were not entitled to relief of £50,000 each.

There is no difference between the allowances which would be available to a married couple who are assessed jointly and those who have elected to be assessed separately. This is on the basis of the effect of section 47(a), which indicates that the total allowances available under separate assessment should not exceed those which would be available if a couple were assessed jointly.

Further explanation

Section 157A(10) states that any premium paid by an individual under a RATS shall be eligible for any allowance which may be claimable under the provisions of section 36. This might be said to be inconsistent with the stricter reading of the budget propositions referred to above, in respect of Years of Charge 2011-2013 inclusive, to the effect that a wife was not entitled to claim a RAA, even where she had sufficient income to enable her to contribute to a RATS, and the Director is accordingly prepared to accept a RAA claim made on behalf of a wife in the same manner as if she were unmarried, for those Years of Charge.

Therefore, provided each spouse had sufficient taxable income (whether earned or unearned) to cover their own contributions up to the £50,000 limit, and where such contributions were made during the year, on receipt of a written request, the Director will extend entitlement to a RAA to each spouse, with effect from 1 January 2011.

This concession does not impact on the ability of a married couple to aggregate their income to ascertain the maximum RAA they are entitled to if qualifying contributions to a RATS are only made in respect of one spouse.

From 2011 onwards, if an individual has made a contribution to a pension arrangement but cannot take advantage of the full tax relief available to him in any year, in accordance with section 157A(11) he may carry forward the unused tax relief to a later year, for a maximum period of 6 years following the end of the relevant year of charge. Please refer to the examples below for how the carry forward provisions would apply to a married couple. Further examples of the practical application may also be found in the [Guernsey Practice Notes for RATS](#) on the website.

Example 1

In 2011, a husband had taxable income of £200,000 and his spouse had taxable income of £0. Contributions of £50,000 were made to each spouse's approved RATS. The claimant and his wife would only be entitled to RAA of £50,000 in 2011, as the wife had no income in her own right. Neither spouse has any unused tax relief to carry forward to later years, as the husband utilised his maximum allowance and the wife did not have any taxable income in 2011.

In 2012, the husband had taxable income of £200,000 and his spouse had taxable income of £100,000. A contribution to their approved RATS of £50,000 was made by the husband and £30,000 by the wife. The claimant and his wife would be entitled to RAA of £80,000 in aggregate in 2012, i.e. £50,000 for the husband and £30,000 (i.e. capped at the amount contributed) for the wife. The wife has unused tax relief of £20,000 (i.e. the maximum of £50,000 less £30,000 contributed) to carry forward to later years.

Example 2

In 2011, a husband had taxable income of £200,000 and his spouse had taxable income of £40,000. Again contributions of £50,000 were made to each spouse's approved RATS. In this example the claimant and his wife would be entitled to RAA of £90,000 in aggregate in 2011, i.e. £50,000 for the husband and £40,000 (the maximum of 100% of her income) for the wife. Neither spouse has any unused tax relief to carry forward to later years, as the husband utilised his maximum allowance and the wife's RAA entitlement is capped at the level of her income in 2011.

Example 3

In 2011, a husband had taxable income of £200,000 and his spouse had taxable income of £40,000. The husband contributed £100,000 to his approved RATS. In this example the claimant and his wife would only be entitled to RAA of £50,000 in 2011, as the wife has not made any qualifying premiums or contributions. Neither spouse has any unused tax relief to carry forward to later years, as the husband utilised his maximum allowance and the wife did not pay any premiums in 2011.

Example 4

In 2011, a husband had taxable income of £30,000 and his spouse had taxable income of £30,000. The husband contributed £50,000 to his approved RATS. In this example the claimant and his wife would be entitled to RAA of £50,000 in 2011, i.e. their income is combined to calculate the RAA entitlement. Neither spouse has any unused balance to carry forward, as the husband utilised his maximum allowance and the wife did not pay any premiums in 2011.

If this situation were reversed, and it was the wife that had contributed £50,000 to her approved RATS instead of the husband, the claimant and his wife would still be entitled to RAA of £50,000 in 2011, i.e. their income is combined to calculate their RAA entitlement.

Again, neither spouse would have any unused tax relief to carry forward to later years, as the husband did not pay any premiums, and the wife utilised her maximum allowance in 2011.

This is as because aggregation of a married couple's taxable income (to ascertain the maximum RAA they are entitled to), is limited to situations where qualifying contributions to a RATS are only made in respect of one individual. This is different to example 2 where, as each spouse has made a contribution to their own RATS, it is necessary to look at the income of each spouse separately.

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