



WHAT'S MINE IS YOURS - JOINT ACCOUNTS AND MARRIED COUPLES

If you are married (or in a Civil Partnership), you and your spouse have a choice as to how you are to be taxed on the income from assets that you own in your joint names. Note that this article only applies to married couples or civil partners – the rules for other people who own assets jointly are different and beyond the scope of this article.

The default position is that you are assumed to share the income equally, so that each of you is liable to tax on half the income. If, for example, you own a rental property as tenants in common with one of you owning 10% and the other owning 90%, you will nevertheless be taxed on half the rental income each.

If you wish, however, you can complete and sign a “Form 17” provided by HMRC, and from the date this is signed, you will be taxed on the income from the property concerned in accordance with your actual ownership of it – so, in the example of the property owned 90:10 above, the rental profit will be split 90:10 between the couple for tax purposes.

This only applies if the Form 17 is received by the inspector of taxes within 60 days of being signed, and this time limit is strictly applied.

The point about income from jointly owned assets is that a basic tax planning technique is to equalise the income of married couples as far as possible. It does not make sense for one spouse to be taxed at 40% or even 50% on some income that could be transferred to the other spouse, if that other spouse is either not paying tax or only paying at the basic 20% rate.

The easiest income to transfer in this way is income from investments such as rental properties, shares, and savings accounts. Until quite recently, however, HMRC were reluctant to accept that a joint savings account with a bank or building society could be the subject of an election on a Form 17.

They said that because either spouse has equal access to the money in the account, they could not argue that one owned more of it than the other, so Form 17 elections in respect of joint accounts were routinely rejected by HMRC.

This was not correct in law, and HMRC have now acknowledged that it is possible for a couple with a joint account to agree that one of them owns more of the capital in the account than the other, and therefore they can use Form 17 to elect to be taxed on their actual beneficial ownership of the money.

So how do a couple go about establishing the beneficial ownership of a joint savings account?

All that is needed is a simple written declaration, signed by both of them, agreeing that the beneficial ownership of the account is in a specified proportion. The declaration should also make the point that this beneficial ownership applies despite the fact that money may be deposited in the account in different amounts by each of the spouses. You would be wise to take advice from a solicitor or a tax adviser on the exact wording, but note that HMRC do not require a formal Deed to establish the ownership.

If, for example, there is a declaration of beneficial ownership of 10% to the husband and 90% to the wife, then if the husband pays £100 into the account, he is effectively making a gift to his wife of £90. This has no tax consequences (apart from the way the income is taxed as a result of the Form 17 election) because gifts between spouses are ignored for the purposes of inheritance tax.

This article by James Bailey first appeared in Tax Insider magazine (www.taxinsider.co.uk)