

This booklet is intended only as a general guide and must be read in conjunction with the appropriate legislation. It does not have any binding force and does not affect a person's right of appeal on points concerning their own liability to income tax.

The information in this booklet can be provided in large print on request.

CONTENTS

	Page
INTRODUCTION	4
WHAT TO DO WHEN YOU SEPARATE	4
YEAR OF SEPARATION	4
Joint taxation	4
Revocation of joint taxation	5
Independent taxation	5
EXAMPLES	5
MORTGAGE INTEREST	10
MAINTENANCE PAYMENTS	10
Paying maintenance	10
Receiving maintenance	11
Maintenance of a child	12
COURT ORDERS MADE OUTSIDE THE ISLAND	12
LONE PARENTS	12
POINTS TO REMEMBER	13
HOW TO MAKE A PAYMENT TO INCOME TAX DIVISION	13
CONTACT INFORMATION	14

INTRODUCTION

This guide outlines the main tax issues that both husband and wife or civil partners may face when they separate permanently on the breakdown of their marriage or civil partnership. The Income Tax Division will be pleased to answer any questions on the information given in this leaflet, concerning personal tax affairs. We cannot give advice on matters of general law, such as the wording of draft documents or Court Orders.

The most frequently asked questions following separation and divorce relate to the taxation of maintenance payments. This booklet covers that area in detail, together with how assessments and personal allowances are affected.

WHAT TO DO WHEN YOU SEPARATE

You need to inform the Division as soon as you separate by completing form R113. Please contact this office for a copy or download one from the Division's website (please see contact information on page 14).

This form asks you to complete important information that is needed to deal with your tax affairs correctly. In particular, the form asks you to state the date that you **permanently** separated. Please note that this is **not** the date of your divorce or dissolution.

If you were jointly taxed before you separated, you will now each need to deal with your own tax affairs. This will mean completing separate income tax returns, making claims for allowances and deductions and paying your own tax.

If you consider that you have separated permanently but live in the same house as your spouse or partner, evidence may be required before you can be treated as separated.

If you start living with your spouse or partner again, you should inform the Division immediately. If you are legally divorced from your spouse or your civil partnership has been dissolved, and you start living together again, you will be taxed as single people who are co-habiting.

YEAR OF SEPARATION

Joint taxation

In the tax year (6 April of one year to 5 April of the next year) that a couple separate both will be treated as single for tax purposes. This means that each spouse or partner will be

taxed on their own income, taking into account their individual personal allowances and deductions only, regardless of where these have been allocated in tax codes during the year.

This treatment may result in an increased tax liability for the spouse or partner who has had the larger share of allowances in their tax code prior to separation.

Revocation of joint taxation

In the tax year of separation both spouses or partners will be taxed as single people, however it is possible to revoke joint taxation for the tax year immediately prior to the year of separation so that you are treated as single people for that year as well. It is **not** compulsory for you to take this action and before doing so you will need to consider carefully whether it will be beneficial. You may have already submitted a joint return and received a joint assessment so revoking joint taxation for the prior year will involve having to „undo“ the joint assessment and transfer any payments etc. to your own files. This could result in you having to pay additional income tax for the year.

Please note that either spouse or partner can revoke joint taxation and there is a form R206 which is available on our website for this purpose. If you decide to revoke joint taxation for the year prior to separation, the form must be received by the Income Tax Division on or before 5 April in the tax year of separation.

The revocation of joint taxation will result in a couple being taxed independently and may result in a higher total tax liability (see examples below).

Independent taxation

The following examples show how tax is calculated for jointly taxed couples and for couples who are independently taxed. For the purpose of these examples the personal allowances and rates of tax have been taken to be those applying for the 2011/2012 tax year. It is important to note that these situations could also occur if the previous year's joint taxation is revoked.

Example 1

Total income – Partner 1 £30,000, Partner 2 £3,000

Joint Taxation Calculation	
Joint income	£33,000
Less : allowances	<u>£18,600</u>
Taxable income	£14,400
Combined liability:	
£14,400 @ 10%	<u>£1,440</u>
 Combined Tax Due	<u>£1,440</u>

Independent Taxation Calculation	
Partner 1	
Income	£30,000
Less : allowances	<u>£9,300</u>
Taxable income	£20,700
Liability:	
£10,500 @ 10%	£1,050
£10,200 @ 20%	<u>£2,040</u>
Tax due from partner 1	£3,090

Example 1 continued

Independent Taxation Calculation

Partner 2

Income	£3,000
Less : allowances	<u>£9,300</u>
Taxable income	NIL

Tax due from partner 2 **NIL**

Combined Tax Due	£3,090
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This example illustrates that because the utilised balance of partner 2's personal allowance (£6,300) cannot be transferred to partner 1 under independent taxation, the overall tax bill increases by £1,650.

Example 2

Total income – Partner 1 £25,000, Partner 2 £15,000

Joint Taxation Calculation

Joint income	£40,000
Less : allowances	<u>£18,600</u>
Taxable income	£21,400

Combined liability:

£21,000 @ 10%	£2,100
£400 @ 20%	<u>£80</u>

Combined Tax Due	£2,180
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Example 3

Partner 1 – income £60,000

Partner 2 - income £80,000

Joint Taxation Calculation

Joint income	£140,000
Less : allowances	<u>£18,600</u>
Taxable income	£121,400
Combined liability:	
£21,000 @ 10%	£2,100
£100,400 @ 20%	<u>£20,080</u>
 Combined Tax Due	<u>£22,180</u>

Independent Taxation Calculation

Partner 1

Income	£60,000
Less : allowances	<u>£9,300</u>
Taxable income	£50,700
Liability:	
£10,500 @ 10%	£1,050
£40,200 @ 20%	<u>£8,040</u>
Tax due from partner 1	£9,090

Example 3 continued

Independent Taxation Calculation

Partner 2

Income	£80,000
Less : allowances	<u>£9,300</u>
Taxable income	£70,700
Liability	
£10,500 @ 10%	£1,050
£60,200 @ 20%	£12,040
Tax due from partner 2	£13,090
 Combined Tax Due	<u>£22,180</u>

This example illustrates that, because both partners earn more than the personal allowance and standard rate band, independent taxation does not result in any overall change in their combined tax bill.

MORTGAGE INTEREST

Following separation, couples with a joint mortgage can continue to claim tax relief for mortgage interest payments. This relief is normally split equally unless either spouse or partner can show that they have paid more of the interest.

MAINTENANCE PAYMENTS

Tax relief for maintenance payments made was abolished from 6 April 2012. Maintenance received is no longer classed as taxable income from 6 April 2012.

Therefore, the information in this section is only relevant for tax years up to and including the year ended 5 April 2012.

PAYING MAINTENANCE

Tax relief can be claimed on maintenance paid under an Order of Court or other legally binding written agreement.

1. In order to qualify for tax relief, the payments must be made by one of the parties to either:

- a) the other party for their general maintenance or for the benefit of a child of the family for its general maintenance and/or education, or
- b) to a child of the family for its general maintenance and/or education.

2. The payments must satisfy the following conditions:

- a) The agreement or Order must be made in the Isle of Man or, if there is an Order made under a competent jurisdiction outside the Isle of Man, both parties to the Order must be resident in the Island.
- b) The person making the payment must be resident in the Island.
- c) The payment must be regarded as income in the hands of the recipient who, in turn, must be assessable to Manx income tax on it, i.e. resident or non-resident tax.
- d) The two parties concerned must not be living together as man and wife at the time any of the payments are made.

NB: A copy of the Court Order or legally binding agreement will be required by the Division.

Payments made under voluntary arrangements are not usually taxed in the hands of the recipient or subject to tax relief for the payer.

If you are in the process of obtaining a legally enforceable agreement, by concession, any voluntary payment you make will (subject to certain rules) be allowed as a tax deduction and your former partner will be taxed on the payment that they receive. The main conditions are that both parties must agree to this in writing and the payments must be no more than those specified in the Court Order or agreement when it comes into force.

Please note that payments made under a Manx Order or agreement to someone who does not live in the Isle of Man are what is known as "Manx source income" of the recipient and therefore subject to Manx non-resident tax at a rate of 20%. This tax must be deducted from the maintenance at the time of payment. The tax deducted must be received by this office before tax relief on the payments can be given to the payer. Please contact the Income Tax Division for more information.

Receiving maintenance

Maintenance payments (except for voluntary payments) are part of your income. They will be taxed if your total income is large enough for you to pay income tax. How you pay the tax depends on your personal circumstances.

If you are working, your maintenance payments may be incorporated in your tax code and income tax will then be paid through deductions from your pay.

You should declare maintenance payments on your return for tax years up to and including 5 April 2012. If you should have received maintenance, but it has not been paid (or only partially paid) to you by your former spouse or partner, you will need to inform the Division so that your tax position can be considered.

Please note that, if you are receiving maintenance under a Manx Order or agreement and you leave the Island permanently, the payments will then be subject to Manx non-resident tax at source.

Maintenance of a child

If the payments for the maintenance of a child under a legally binding agreement or Court Order are payable to **you**, then they are treated as **your income**.

If, under the terms of the Court Order, maintenance is to be paid **directly to the child**, then it becomes the taxable **income of the child**. If the child's income exceeds the personal allowance, it will result in a tax bill.

Court orders made outside the island

If you live in the Isle of Man and are paying maintenance in accordance with a Court Order made outside the Isle of Man to someone who is **not** resident in the Isle of Man, you cannot claim a tax deduction in respect of the maintenance paid.

However, by concession, we **will** allow tax relief for maintenance paid in these circumstances against any income you receive from the country in which the Order has been made, **up to the level of that income only**.

LONE PARENTS

If you are taxed as a single person and you have a child living with you, you may be able to claim the "Additional Personal Allowance".

Please contact the Division for a claim form **R135**. Alternatively, a copy can be downloaded from the Division's website (please see contact information on page 14).

POINTS TO REMEMBER

- Please tell the Division as soon as you separate and provide a copy of any separation agreement as soon as it is made.
- Please tell the Division about any changes in your separation arrangements.
- If you are working, your tax code may need revising.
- Always give your reference number when writing to the Division. If you do not yet have one, please make this clear when writing.
- Please let the Division know if you reconcile.
- You can always ask the Division for help (see page 14).

HOW TO MAKE A PAYMENT TO INCOME TAX DIVISION

Online – you can pay online with a credit or debit card after registering and enrolling for Online Tax Services at www.gov.im/incometax.

By Debit/Credit Card – We accept most debit and credit cards. You can pay either over the phone, online or at our counter. Please ring (01624) 685400 during normal office hours to pay over the phone.

By Bank Giro Credit – present the payment counterfoil with your remittance at any bank. A bank account is not required to use this facility.

By Post – make sure that the payment counterfoil is enclosed. Cash should only be sent through the post by Special Delivery.

At the Income Tax Division – 2nd Floor, Government Office, Douglas – Monday to Thursday 9.15 am to 5 pm; Friday 9.15 am to 4.30 pm. Please bring the assessment with you.

Cheques and postal orders should be made payable to the “Isle of Man Government” and crossed. A receipt will only be issued if requested.

CONTACT INFORMATION

If you require any further information or wish to discuss anything in this booklet, please do not hesitate to get in touch.

Address	The Treasury Income Tax Division Second Floor Government Office Bucks Road Douglas Isle of Man IM1 3TX	
Telephone	(01624) 685400	
Fax	(01624) 685351	
E-mail	incometax@itd.treasury.gov.im	
Website	www.gov.im/incometax	
Opening hours	Monday to Thursday	9.15 am – 5.00 pm
	Friday	9.15 am – 4.30 pm