
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend primary tax legislation to provide for civil partnerships.

The Civil Partnership Act 2004 (c. 33) comes into force on 5 December 2005. The Act enables same-sex couples to obtain legal recognition of their relationship by forming a civil partnership. A civil partnership may be formed by persons registering as civil partners of each other. In addition persons may be treated as having formed a civil partnership as a result of having registered an overseas relationship which is recognised by the Civil Partnership Act.

These Regulations provide the same or similar tax treatment for persons who are, have been or may in the future be civil partners of each other as is given to persons who are, have been or may in the future be married to each other. These Regulations also provide the same or similar tax treatment for the formation of a civil partnership as is given to marriage. For some legislation the tax consequences are determined in part by whether persons are not married to each other but are living together as husband or wife, whether persons are not married to each other or whether a person is not married. These Regulations provide that the same or similar tax consequences apply where persons are not civil partners of each other but are living together as if they were, where persons are not civil partners of each other or where a person is not a civil partner, as the case may be.

These Regulations also make provision for the purpose of removing inequalities of treatment based on gender and, in the case of a parent, marital status. The provisions affected are section 11 (dispositions for maintenance of family) of the Inheritance Tax Act 1984 (c.51) and sections 257A, 257BA, 257BB (married couple's allowance) and 347B (qualifying maintenance payments) of the Income and Corporation Taxes Act 1988 (c. 1). These Regulations also make more generous provision in relation to the children that can be provided for under a marriage settlement. The provisions affected are section 22 (gifts in consideration of marriage) of the Inheritance Tax Act, sections 77 (charge on settlor with interest in settlement) and 169F (meaning of "interest in a settlement") of, and paragraph 2 of Schedule 5 (attribution of gains to settlors with interest in non-resident or dual resident settlements) to, the Taxation of Chargeable Gains Act 1992 (c. 12), and section 625 of the Income Tax (Trading and Other Income) Act 2005 (c. 5).