



Taxcafe.co.uk Tax Guides

How Couples Save Tax

By Carl Bayley BSc ACA

About the Author

Carl Bayley is the author of a series of plain English tax guides designed specifically for the layman. Carl's particular speciality is his ability to take the weird, complex and inexplicable world of taxation and set it out in the kind of clear, straightforward language that taxpayers themselves can understand. As he often says himself, "my job is to translate 'tax' into English".

Carl enjoys his role as a tax author, as he explains: "Writing these guides gives me the opportunity to use the skills and knowledge learned over more than twenty years in the tax profession for the benefit of a wider audience. The most satisfying part of my success as an author is the chance to give the average person the same standard of advice as the 'big guys' at a price which everyone can afford."

Carl takes the same approach when speaking on taxation, a role he frequently undertakes with great enthusiasm, including his highly acclaimed annual 'Budget Breakfast' for the Institute of Chartered Accountants.

In addition to being a recognised author and speaker on the subject, Carl has often spoken on taxation on radio and television, including the BBC's 'It's Your Money' programme and BBC Radio 2's Jeremy Vine Show.

Carl began his career as a Chartered Accountant in 1983 with one of the 'Big 4' accountancy firms. After qualifying as a double prize-winner, he immediately began specialising in taxation.

After honing his skills with several major international firms, Carl began the new millennium by launching his own tax and accounting practice, Bayley Miller Limited, through which he provides advice on a wide variety of taxation issues; especially property taxation, Inheritance Tax planning and tax planning for small and medium-sized businesses.

Carl is a member of the governing Council of the Institute of Chartered Accountants in England and Wales and a former Chairman of the Institute Members in Scotland group. He has co-organised the annual Peebles Tax Conference for the last seven years.

When he isn't working, Carl takes on the equally taxing challenges of hill walking and writing poetry and fiction. Carl lives in Scotland with his partner Isabel and has four children.

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Introduction

By the Author

Everyone needs to save money in the current economic climate. The trouble is that saving money usually means giving something up and that means making difficult and unpopular choices: unpopular with business colleagues and unpopular with our families.

But there is a way of saving money that does not involve having to give anything up: by saving tax.

Everyone would like to save tax when they can but, once we are in a couple, the opportunities for saving tax increase substantially.

Most of us will be part of a couple for the majority of our adult lives. Generally speaking, this time also corresponds with our highest levels of both income and expenditure. Minimising our tax burden during this period is therefore absolutely essential.

Fortunately, being part of a couple significantly expands our scope to save tax. Between us, we have two personal allowances, two sets of tax bands and two 'bites of the cherry' when it comes to other key tax exemptions such as the annual Capital Gains Tax exemption, entrepreneurs' relief and the Inheritance Tax nil rate band.

But maximising the benefit of a couple's combined tax reliefs and exemptions is not always an easy matter and the way that the tax legislation is structured, as well as the way that it is interpreted by HM Revenue and Customs, will often be at odds with this objective.

We will therefore start out in Chapters 1 to 3 with an overview of how couples save tax and by examining some of the tax saving strategies available to **all** couples, regardless of their tax status, covering income in Chapter 2 and capital gains in Chapter 3. Throughout this guide, however, it will remain essential to bear your own legal status in mind.

In Chapter 4 we will then look at the key issue of how to transfer assets to your partner tax effectively, avoiding the many pitfalls in your way.

In Chapter 5 we will deal with some of the more advanced techniques that are available to couples where one or both partners have their own business.

Having dealt with the tax saving strategies common to all couples, we then need to consider the fact that 'couples' operate within two very different tax regimes:

Firstly, there are 'unmarried couples', whose partnership has little or no legal status for tax purposes (nothing helpful, anyway). In the developed world of the early 21st Century, many couples now start their lives together with a period as an unmarried couple. Many will also choose to remain unmarried throughout their lives, especially since much of the former social stigma associated with being unmarried is now regarded as obsolete.

Until recently, same-sex couples had no choice but to remain unmarried. That situation changed when the Civil Partnership Act came into force in December 2005 and created the new institution of civil partnership.

Nevertheless, since many people will spend at least part of their lives as an unmarried couple, Chapter 6 is devoted to examining the tax saving techniques available specifically to unmarried couples.

Secondly, we have a different tax regime applying to married couples and civil partners.

Whilst, to the outside world, the couple may appear exactly the same as an unmarried couple, marriage or civil partnership makes an enormous difference to the couple's tax status.

The impact of this change is so great that one of my first questions to most new clients is "are you married?" (It never pays to make any assumptions, even if an octogenarian couple arrive in my office holding hands!)

We will take a detailed look at the legal and tax ‘metamorphosis’ brought about by marriage or registration of a civil partnership in Chapters 7 and 8. The ongoing tax saving strategies available to married couples and civil partners are then covered in Chapter 9.

Another key change to a couple’s tax status occurs if they separate or divorce. Like all of life’s major changes, careful consideration can make a significant difference to the tax bills and we will look at this situation in Chapter 10.

In Chapter 11 we will look at the additional tax reliefs available to older couples. Chapter 12 then covers some of the tax implications when a spouse or partner dies. For a detailed guide to Inheritance Tax planning for couples, however, see the Taxcafe.co.uk guide ‘*How to Avoid Inheritance Tax*’.

Couples where one or both partners are non-UK resident, non-UK ordinarily resident or non-UK domiciled are in a special position and we will examine their situation in Chapter 13. Readers who are in such a couple should bear in mind that everything in the rest of this guide is subject to the further comments in Chapter 13.

Finally, whilst this is primarily a tax guide, in Chapter 14 we will take a brief look at some of the other legal and financial issues which couples need to take into account when planning their affairs.

Viewed as a whole, my objectives in writing this guide may be summarised as follows:

- To explore and explain the tax saving strategies available to **all** couples.
- To highlight the differences in tax treatment between married couples and civil partnerships on the one hand and unmarried couples on the other.
- To enable couples of all kinds to understand their tax position and to minimise their tax burden.

- To guide couples through the tax implications of the major changes to their tax status arising throughout their lives, whether brought about by marriage, civil partnership, divorce, separation or the death of a spouse or partner.

All in all, whether you've just met the love of your life or just celebrated your diamond wedding anniversary, I believe that this guide provides an essential tool in helping you to make the most of your position as a couple and save tax wherever possible.

Remember, love is saving twice as much tax!

Scope Of This Guide

The reader must bear in mind the general nature of this guide. Individual circumstances vary and the tax implications of an individual's actions will vary with them. For this reason, it is always vital to get professional advice before undertaking any tax planning or other transactions which may have tax implications. The author cannot accept any responsibility for any loss which may arise as a consequence of any action taken, or any decision to refrain from action taken, as a result of reading this guide.

More specifically, this guide is concerned with planning a couple's UK taxation affairs only. I will occasionally have cause to mention foreign taxes but, in general, this guide is not concerned with foreign taxation. Whenever one or both of the couple have any form of foreign connection, foreign assets or foreign income, I would advise that local advice is sought in the relevant country.

The aim of this guide is to enable couples to save tax during their lifetime. Whilst Inheritance Tax is touched upon briefly in this guide, Inheritance Tax planning for couples is covered in far more detail in the Taxcafe.co.uk guide '*How to Avoid Inheritance Tax*'. Many of the 'lifetime' planning techniques discussed in this guide could also have Inheritance Tax consequences and it is important to consider this when carrying out any planning.

One very important assumption I have made throughout this guide is that we are concerned only with an adult couple, both of whom are aged 18 or more. Tax planning involving children under the age of 18 is a completely different matter and many of the techniques outlined herein simply will not work if you try to apply the same principles in a parent-child relationship or any other relationship which includes a person under the age of 18.

Other People Wishing to Use This Guide

Most of the tax planning available to unmarried couples will also be suitable for two adult siblings, a parent and their adult child, or any other pair of adults wishing to arrange their tax affairs to mutual benefit.

Some care needs to be taken, however, as many of these 'pairs' will be connected persons (see Section 7.7) and will therefore be subject to some of the same anti-avoidance legislation as a married couple. Furthermore, such people would not be regarded as 'co-habiting' which has important implications for tax credit claims (see Section 2.17).

The best rule of thumb I can offer any two adult people who are not a 'couple', but who still wish to plan their affairs to their mutual benefit, is as follows:

- Check Section 7.7 and Appendix C to see if you are connected.
- If not, you may plan your affairs on the same basis as an unmarried couple who are not co-habiting.
- If you are connected, you will probably suffer most of the same disadvantages as a married couple or civil partnership, but without any of the advantages. If you proceed on this assumption, you probably won't go too far wrong, subject to the major exception that you will each continue to be entitled to your own 'main residence' for Capital Gains Tax purposes (see Section 6.8). Nevertheless, I would still recommend that you take professional advice to confirm your position.

Wealth Warning

What you must **not** do if you are connected is assume that you are in the same position as an unmarried couple.

About The Examples

Unless specifically stated to the contrary, all persons described in the examples in this guide are UK resident, ordinarily resident and domiciled for tax purposes.

All persons described in the examples in this guide are entirely fictional characters created specifically for the purposes of this guide. Any similarities to actual persons, living or dead, or to fictional characters created by any other author, are entirely coincidental. Likewise, the companies described in the examples in this guide are similarly fictional corporations created specifically for the purposes of this guide and any similarities to actual companies, past or present, is again entirely coincidental.

Future Tax Rates

In many of the examples throughout this guide, I will be considering the tax position of couples in **future** tax years.

In preparing the examples in this guide, I have assumed that the UK tax regime will remain unchanged in the future except to the extent of any announcements already made at the time of publication and purely inflationary increases to personal allowances and tax bands.

However, if there is one thing which we can predict with any certainty, it is the fact that change **will** occur. The reader must bear this in mind when reviewing the results of the examples in this guide.

Generally, of course, we do not know what the tax rates and allowances will be in future years. However, in his last Budget Statement as Chancellor in March 2007, Gordon Brown made a significant number of proposals regarding future changes to the UK tax regime, including:

- The higher rate Income Tax threshold will be increased by £800 more than inflation for 2009/10.

- From 6th April 2009, the upper threshold for primary National Insurance will be aligned with the point at which taxpayers begin to pay higher rate Income Tax (i.e. the sum of the personal allowance and the basic rate tax band).
- The personal allowance for taxpayers aged 75 or more (see Chapter 11) will be increased to at least £10,000 for 2011/12.

As our former Chancellor became Prime Minister a short time later, it initially seemed likely that his wishes would come to fruition.

However, given the sensational debacle over the abolition of the 10% starting rate and the Government's track record for dramatic 'U-Turns', it now seems highly probable that the measures announced previously will be subject to some significant changes.

In fact, the Government has little choice in this matter, as the retrospective increase in the 2008/9 personal allowance from £5,435 to £6,035 announced on 13th May 2008 will cost them an estimated £2.7 billion which they cannot afford to repeat next year.

Nevertheless, as we cannot predict what they will do (nor how many times they will subsequently change their mind), I will continue to base my forecasts on existing proposals; as this is the best information that we currently have.

Building on current proposals and looking further into the future, I have adopted one consistent set of assumptions based on past experience. In addition to the proposed changes set out above, I have assumed the following:

- Personal allowances will increase at the rate of 3.5% per annum.
- All Income Tax and National Insurance rate bands, as well as the annual Capital Gains Tax exemption, will also increase at the rate of 3.5% per annum.
- Weekly Class 2 National Insurance will increase by ten pence per annum.

The resultant future estimated tax rates for 2009/10 to 2013/14 are set out in Appendix B. Please do remember that all of my assumptions are made simply for illustrative purposes and are only my 'best guess'; so don't expect them to always be absolutely accurate!

How Couples Save Tax

1.1 HOW DO COUPLES SAVE TAX?

In this chapter, we are going to set the scene by looking at the general principles behind the many tax-planning strategies available to enable couples to save tax. To begin with, we will consider the issues applying to *all couples*, regardless of whether they're married, unmarried or in a civil partnership.

We will also begin by concentrating on the planning techniques available during the couple's life together. Issues relating to the end of our time as a couple will be dealt with later in the guide.

The strategies which we use to save tax for a couple during their lifetime may be broken down into three main categories:

- Sharing mutual wealth (also known as marginal rate planning),
- Controlling the timing of transactions, and
- Maximising the benefit of a partner's special tax status.

In this chapter, we will take a brief look at the principles behind each of these categories of tax saving techniques before moving on to more specific cases in later chapters.

1.2 SOME BASIC TERMINOLOGY

Before we proceed any further, I should explain some of the terminology which I will be using in this guide.

The UK tax year runs from 6th April in one calendar year to 5th April in the next. Hence, for example, the 2008/9 tax year is the year beginning on 6th April 2008 and ending on 5th April 2009.

The UK comprises England, Scotland, Wales and Northern Ireland. For tax purposes, it does not include the Channel Islands or the Isle of Man.

A large part of this guide concerns the difference between couples who are legally married or in a registered civil partnership and unmarried couples who are not in either of these formal legal institutions.

Hence, it is important for me to be quite precise with the terminology I use to describe our relationships. In this guide, the following terms have only the exact meanings given below:

- **'Married'** means legally married and not separated or divorced.
- **'Husband'**, **'Wife'** and **'Spouse'** refer to spouses in a legal marriage only.
- **'Civil Partner'** means a partner in a same-sex couple who have legally registered their partnership and have not separated.
- **'Civil Partnership'** means a same-sex couple who have legally registered their partnership and have not separated.
- **'Unmarried'** means neither legally married nor in a registered civil partnership.
- **'Partner'** means *any* spouse or partner of the same or opposite sex with whom an individual is co-habiting, or is in a long-term personal relationship, whether married, unmarried or in a civil partnership. In this guide, 'partner' does not refer to a business partner – unless the individual also happens to be in a personal relationship with their business partner.
- **'Business partner'** is the term which I will use where I do specifically wish to refer to a person with whom an individual is in business. Such a person may or may not also be the 'partner' with whom they have a personal relationship.

1.3 WITH ALL MY WORLDLY GOODS

The traditional wedding vows used in many marriage ceremonies include the line “With All My Worldly Goods I Thee Endow”. This implies a complete sharing of all wealth and possessions. The degree to which this implicit promise to share everything is actually adopted in practice has always varied somewhat but recent social and legal changes mean that couples now come in many different varieties and also choose to share their wealth in many different ways.

Not everyone is comfortable with sharing wealth. Whatever their personal reasons may be, as a tax adviser, I must always respect their wishes; whilst also advising them of the consequences.

One consequence of an unwillingness to share your wealth with your partner is that this will hamper your ability to carry out constructive tax planning.

This springs from the fact that the most effective tax planning for couples usually requires the wealthier member of the couple to give some part of that wealth to the other partner. Some people are completely happy with this whilst, when it comes to money, others are very reluctant to trust their partners.

You must decide for yourself what level of ‘sharing’ you are comfortable with, but I must stress that, as far as tax planning is concerned, the giving of any assets or income to your partner must be completely genuine in order to be effective. If you want to save tax, you are usually going to have to trust your partner. There are very few instances where you can ‘have your cake and eat it’.

Those who are willing to consider what is most beneficial for the couple taken as a whole, and act accordingly, will usually have the greatest scope to utilise the available strategies and save tax.

Nevertheless, despite my line of work, I am always concerned to ensure that tax planning never takes precedence over common sense. After all, what would you rather do: give 40% of your money to the Government, or allow an untrustworthy partner to run away with 100% of it?

1.4 SHARING MUTUAL WEALTH

Where a couple are happy to regard their wealth as completely interchangeable and don't care which of them it belongs to, it is logical for them to plan their financial affairs to pay the least possible amount of tax in total between them.

Each member of the couple has their own set of tax allowances, reliefs, exemptions and rate bands, including:

- The personal Income Tax allowance
- The basic rate Income Tax band
- The starting rate Income Tax band for interest and other savings income
- The annual Capital Gains Tax exemption
- The entrepreneurs' relief lifetime limit for Capital Gains Tax purposes
- Private letting relief (for disposals of a current or former principal private residence, i.e. your current or former home)
- The small earnings exception for Class 2 National Insurance
- The National Insurance earnings threshold
- The nil rate band for Inheritance Tax
- The annual exemption for Inheritance Tax

The current amounts of each of these allowances, bands and reliefs applying for the 2008/9 tax year are given in Appendix A (except for private letting relief, where the maximum relief per property per person is set at £40,000, and the entrepreneurs' relief lifetime limit which is £1m).

Every couple has the potential to double the value of these bands and reliefs – most of them on an *annual* basis.

1.5 HOW MUCH IS AT STAKE?

Let's consider for a moment just how much the potential tax savings are actually worth in practice.

Using 2008/9 tax rates, the maximum tax savings available to most couples, simply by optimising the use of their available tax bands, reliefs and exemptions, are as follows:

- £1,728 in Capital Gains Tax **annually**.
PLUS
- An extra £7,200 in Capital Gains Tax **per property** where private letting relief is available.
OR
- A further £80,000 in Capital Gains Tax where entrepreneurs' relief is available.
PLUS
- £9,374 in Income Tax on rental income **annually**,
- £9,309 in Income Tax and National Insurance on trading profits **annually**,
- £9,188 in Income Tax on most dividend income **annually**,
- £9,606 in Income Tax on savings income **annually**,
- £9,791 in Income Tax on some foreign dividend income **annually, or**
- Some combination of the above.
PLUS
- £124,800 in Inheritance Tax on death
PLUS
- £1,200 **per annum** in Inheritance Tax on lifetime gifts
PLUS
- A further £100 **per annum** in Inheritance Tax on small lifetime gifts **per recipient**
PLUS
- A further £2,000 **per child** in Inheritance Tax on gifts made at the time of their marriage or registration of their civil partnership.

And this list is still not exhaustive!

Whilst simply making use of a person's tax allowances, exemptions and reliefs is not exactly considered to be 'rocket science' in the tax-planning world, I would hope that the above

list will have convinced most readers that it is nevertheless worthwhile.

Naturally, to obtain the maximum benefit from sharing wealth, the couple does need to have a reasonable amount of wealth in the first place.

It currently takes combined annual income of at least £81,670 before a couple are able to fully utilise both of their personal allowances and basic rate tax bands plus a further £19,200 in capital gains before both annual exemptions are used.

Whilst all of the 'maximum savings' quoted above are based on the premise that the couple have this level of income between them, some pretty worthwhile savings can still be made by couples with much lower income levels.

In fact, *proportionately*, the best savings come on the first slice of income which is 'shared' and a couple with a combined annual income of only £12,070 could conceivably save as much as £1,805 each year.

Just in case anyone does need any further convincing of the value to a couple of sharing mutual wealth, I have prepared the following example of the lifetime tax savings which can be achieved.

Lifetime Tax Savings Example

Two young brothers, Ollie and Stan, are each left substantial, but identical, legacies by their Great Aunt Mae. As a result, each brother receives substantial interest income each year, most of which is taxed at 40%.

By 2008/9, each brother is living with a long-term partner. Stan has transferred enough of his wealth to his partner Clara to enable her to fully utilise her personal allowance and her basic rate Income Tax band. She also realises enough capital gains each year to make use of her annual Capital Gains Tax exemption. Clara gave up her job when she

moved in with Stan, so she has no income other than that provided by the assets which Stan transferred to her.

Whilst Ollie supports his partner financially, he is not prepared to transfer any of his wealth and continues to keep all income and capital gains in his own name. Ollie's partner also gave up work a few years ago and is now quite happy to be supported by Ollie.

The only difference between Stan and Ollie at this stage is the fact that Stan has transferred wealth to Clara to enable her to utilise her own tax allowances, bands and reliefs. In 2008/9 alone, this saves the couple £11,334 in Income Tax and Capital Gains Tax. The money saved is all reinvested.

In 2009/10, Stan and Clara make further tax savings of £11,923 by continuing to employ the same strategy, as well as earning an additional £680 (after tax) on the extra funds reinvested the previous year. This leaves them a total of £23,937 better off than Ollie and his partner after just two years. Again all the money saved is reinvested.

By 5th April 2018, simply by using Clara's personal allowance, Income Tax bands and annual Capital Gains Tax exemption for ten years, we find that she and Stan are a total of £175,664 better off than Ollie and his partner.

During 2017/18, however, both couples also sold one of their former homes for a substantial capital gain. In each case, the gain on the property attracts private letting relief at the statutory maximum rate of £40,000 per person. Stan and Clara owned their property jointly and are thus entitled to a total of £80,000 private letting relief. Ollie, on the other hand, owned his property in his sole name and can claim only £40,000 in private letting relief. As a result of this, Stan and Clara save an additional £7,200 in Capital Gains Tax over and above the usual annual tax savings which they have already been enjoying.

Things carry on in the same vein for another ten years and, in 2027/28, the couples both sell another former home under similar circumstances with the same overall additional tax saving accruing to Stan and Clara.

By this point we find that Stan and Clara are now £586,145 better off than Ollie.

In the years that follow, both couples undertake some Inheritance Tax planning by making use of the annual exemption for lifetime gifts of £3,000 per person. In each tax year Stan and Clara are able to make Inheritance Tax exempt gifts of £3,000 each, thus safely removing a total of £6,000 per annum from their estates for Inheritance Tax purposes. Ollie only uses his own annual Inheritance Tax exemption of £3,000 each year.

Between 6th April 2041 and 5th April 2048, each of Stan and Clara's four children marry or enter a civil partnership. On each occasion, Stan and Clara are able to make additional Inheritance Tax exempt gifts of £5,000 each – a total of £10,000 on each occasion.

Each of Ollie's four children also marry or enter civil partnerships during the same period, but on each of these occasions, he only makes a single £5,000 Inheritance Tax exempt gift.

Tragically, on 6th April 2048, Stan, Clara, Ollie and Ollie's partner are all killed when a meteor hits their private space-yacht whilst in orbit around Mars. A few months later, the eight grieving cousins, the children of the two unlucky couples, gather in the offices of Grabbit & Runn, the family lawyers, to hear the details of their inheritance.

Firstly, Mr Grabbit the lawyer explains that Stan and Clara's accumulated Income Tax and Capital Gains Tax savings over a period of 40 years, together with the extra investment income that these reinvested savings have yielded mean that their combined estate is worth a total of £3,050,545 more than Ollie's estate.

He then further explains that Clara was able to make use of her own Inheritance Tax nil rate band, which over the years has risen to £1,332,000. This, coupled with the Inheritance Tax exempt gifts made by Clara in the last seven years of her life means that a total of £1,373,000 extra has been sheltered from Inheritance Tax for the benefit of Clara and Stan's children.

All in all, after taking account of Inheritance Tax, Stan and Clara's children will eventually inherit £2,379,527 more than Ollie's children.

(I have assumed that Ollie's partner was unable to use their Inheritance Tax nil rate band. This will depend on the exact circumstances prevailing at the time of the couple's death. See the Taxcafe.co.uk guide 'How to Avoid Inheritance Tax' for further details.)

In the end, Stan's family is almost £2.4m better off simply because he was willing to share his wealth with his partner.

Well, it may have taken me 40 years, but I hope I have now proven once and for all that this simple technique is as worthy as any complex tax planning scheme.

1.6 HOW DOES SHARING MUTUAL WEALTH WORK?

The basic idea behind sharing mutual wealth is simply to move income or capital gains from the hands of one partner to the other.

Why does this save tax?

Moving income or capital gains saves tax when these are moved from a partner with a higher marginal tax rate to a partner with a lower marginal tax rate.

What do we mean by 'marginal tax rate'?

Your marginal tax rate is the extra tax you pay on any increase in your income or capital gains. If you earn an extra £1 and your tax bill goes up by 31p, you have a 31% marginal tax rate.

Looked at another way, your marginal rate is the tax you can SAVE by transferring income or capital gains to your partner.

Matters can get a bit more complex than this, but let's kick off with a simple example.

Example

Ginger, a wealthy heiress, is in a long-term relationship with Fred, a freelance professional dancer whose income, shall we say, fluctuates.

In 2008/9, Ginger's total income will be considerably in excess of the higher rate income tax threshold.

Fred, on the other hand, expects total income for the year of only around £12,000. After deducting his personal allowance (£6,035), this leaves him with taxable income of just £5,965, some £28,835 less than the higher rate threshold.

In April 2008, Ginger transfers a bank deposit of £500,000 into Fred's name. During 2008/9 this deposit will yield interest income of £25,000. As Fred is a basic rate taxpayer, his Income Tax liability on this interest income will only be £5,000 (20%).

If Ginger had kept the bank deposit in her own name, she would have had an Income Tax liability of £10,000 on this income (i.e. 40%).

In this example, we can easily see that one very simple transaction has saved the couple £5,000 of tax in one year alone.

This makes perfect sense when you view the couple's wealth as being completely interchangeable.

On the other hand, one might wonder just who this 'Fred' really is. In addition to the £5,000 tax saving, he now also has a further £515,000 which would otherwise have belonged to Ginger. This type of planning therefore involves a great deal of trust!

In Chapters 2 and 3, we will return to the subject of sharing mutual wealth (a.k.a. marginal rate planning) as a means to save tax on income and capital gains respectively and we will see many more practical examples of this useful technique in action.

Note, however, that much of the tax planning associated with sharing mutual wealth involves transferring assets to your partner. The tax consequences of the actual transfer will depend on the

couple's *marital status* and are therefore covered separately in Chapter 6 for unmarried couples and Chapter 9 for married couples and civil partners.

1.7 TIMING IS EVERYTHING

Another common theme to the tax-planning techniques available to couples is the ability to **control the timing of transactions**. This is often of most use in the field of Capital Gains Tax planning.

Sometimes there is an advantage to creating a disposal of an asset **now** in order to fully enjoy the benefits of various tax exemptions and reliefs which are 'time sensitive' and may therefore either diminish or be lost altogether. These include:

- The annual Capital Gains Tax exemption
- The principal private residence exemption (for a former home)
- Entrepreneurs' relief
- Rollover relief (on replacement of business assets)

Having a partner allows you to maximise these reliefs quite easily: You simply sell the asset to your partner – a 'friendly' deal which can usually be done pretty quickly.

This means the asset will still be under the couple's control, which is particularly useful when we want to maximise the tax benefits without actually losing the underlying asset. In tax planning we often refer to this as 'crystallising a gain' – i.e. causing a capital gain to arise without actually disposing of the asset.

Most tax-planning techniques revolving around transfers of assets between partners are very much dependent on the couple's legal status, so we shall return to this theme in later chapters.

'Bed and breakfasting' is, however, one variation on this theme that is generally available to all couples, as we shall see in Section 3.7.

1.8 PARTNERS WITH A SPECIAL TAX STATUS

As a general rule, a couple will usually optimise the use of their tax exemptions and reliefs if they share all of their wealth equally.

However, there are a number of important exceptions to this rule which arise whenever one partner has some kind of special tax status which the other does not have. In such cases, it will obviously make sense to maximise the benefit of that partner's special tax status.

The main instances of 'special tax status' are where one partner, but not the other, is:

- i) Non-UK resident
- ii) Non-UK ordinarily resident
- iii) Non-UK domiciled
- iv) Over state retirement age
- v) Eligible for principal private residence relief on a property
- vi) Eligible for entrepreneurs' relief on an asset
- vii) A crown servant, or member of the diplomatic service, or
- viii) A member of the armed forces.

Couples with one partner falling under headings (i), (ii) or (iii) above have the potential for significant additional areas of tax planning and we will deal with these in Chapter 13.

Having one member of the couple over state retirement age provides the possibility for a little extra tax planning and we will cover this in Chapter 11.

Principal private residence relief is so dependent on marital status that we will have to come back to it later.

It is important to be aware of each partner's tax status for entrepreneurs' relief purposes, as this can make the difference between an effective rate of Capital Gains Tax of 10% or 18%. We will therefore return to this subject in Chapter 3.

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