

## **Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010**

“I was married by a judge. I should have asked for a jury.”

Not our words, but those of Grouch Marx!

With the Civil Partnership and Certain Rights and Obligations of Cohabitants Acts 2010 passed into law neither a judge nor a jury will be required for same sex couples to marry but just two adult witnesses and a civil registry.

The Bill passed into law on 19<sup>th</sup> July 2010 and will be introduced upon Ministerial Order in 2011. Once the legislation is passed the changes will apply for the 2011 year of assessment. The bill makes no reference to taxation or social welfare reform in respect of civil partners, however the minister has given assurances that for the purposes of taxation and social welfare, civil partners will be treated the same as spouses.

### **Civil Partnership – Tax Implications**

Civil partnership is only available to same sex couples; marriage is the option available to opposite sex couples. The Act intends to treat civil partners the same as spouses in taxation and social welfare legislation. Marriage has many advantages, studies have shown that married couples have a longer life expectancy but there are also tax advantages to being a married couple:

#### ***Income Tax***

It is normally beneficial for married couples to be jointly assessed for income tax. Under joint assessment a married couple will be entitled to:

- A married tax credit which is double the single person tax credit.
- Possible home carer tax credit.
- Double the maximum mortgage interest relief or double the rent tax credit relief which is available to single persons.
- An increased standard rate cut off.
- Trading losses of one spouse may be offset against income of the other spouse.

#### ***Capital Gains Tax (CGT)***

- Assets can be transferred between spouses without triggering a CGT liability. It is important to note that in the context of the Civil Partnership Bill this special relief as currently worded in tax legislation applies to a “married couple where the wife is a “married woman” living with husband.” For this relief to apply to civil partners the wording in the tax legislation would have to be amended.
- Capital losses available to one spouse can be used by the other spouse.

#### ***Stamp Duty***

Transfers between married couples are exempt from stamp duty. Unlike CGT, the exemption only requires that the couple are parties to a lawful marriage and do not have to be living together as man and wife, i.e. if the couple are formally or informally separated.

***Capital Acquisitions Tax (CAT)***

Gifts and Inheritances between married couples are exempt from CAT. Again, the exemption only requires that the married couple should be parties to a lawful marriage and still applies even if the couple are formally or informally separated.

**Disclaimer:**

The object of this article is to provide useful tips in relation to Irish Tax Regulations according it cannot be regarded as a definitive guide and no liability can be accepted in respect of decisions taken in reliance on the information herein contained.