

Assessment of wife in respect of income of both spouses. ITA67 s195B; FA93 s10(1) 1019.—(1) In this section—

“the basis year”, in relation to a husband and wife, means the year of marriage or, if earlier, the latest year of assessment preceding that year of marriage for which details of the total incomes of both the husband and the wife are available to the inspector at the time they first elect, or are first deemed to have duly elected, to be assessed to tax in accordance with section 1017;

“year of marriage”, in relation to a husband and wife, means the year of assessment in which their marriage took place.

(2) Subsection (3) shall apply for a year of assessment where, in the case of a husband and wife who are living together—

(a) (i) an election (including an election deemed to have been duly made) by the husband and wife to be assessed to income tax in accordance with section 1017 has effect in relation to the year of assessment, and

(ii) the husband and the wife by notice in writing jointly given to the inspector before the 6th day of July in the year of assessment elect that the wife should be assessed to income tax in accordance with section 1017,

or

(b) (i) the year of marriage is the year 1993-94 or a subsequent year of assessment,

(ii) not having made an election under section 1018 (1) to be assessed to income tax in accordance with section 1017, the husband and wife have been deemed for that year of assessment, in accordance with section 1018 (4), to have duly made such an election, but have not made an election in accordance with paragraph (a) (ii) for that year, and

(iii) the inspector, to the best of his or her knowledge and belief, considers that the total income of the wife for the basis year exceeded the total income of her husband for that basis year.

(3) Where this subsection applies for a year of assessment, the wife shall be assessed to income tax in accordance with section 1017 for that year, and accordingly references in section 1017 or in any other provision of the Income Tax Acts, however expressed—

(a) to a husband being assessed, assessed and charged or chargeable to income tax for a year of assessment in respect of his own total income (if any) and his wife's total income (if any), and

(b) to income of a wife being deemed for income tax purposes to be that of her husband,

shall, subject to this section and the modifications set out in subsection (6) and any other necessary

modifications, be construed respectively for that year of assessment as references—

(i) to a wife being assessed, assessed and charged or chargeable to income tax in respect of her own total income (if any) and her husband's total income (if any), and

(ii) to the income of a husband being deemed for income tax purposes to be that of his wife.

(4) (a) Where in accordance with subsection (3) a wife is by virtue of subsection (2) (b) to be assessed and charged to income tax in respect of her total income (if any) and her husband's total income (if any) for a year of assessment—

(i) in the absence of a notice given in accordance with subsection (1) or (4) (a) of section 1018 or an application made under section 1023, the wife shall be so assessed and charged for each subsequent year of assessment, and

(ii) any such charge shall apply and continue to apply notwithstanding that her husband's total income for the basis year may have exceeded her total income for that year.

(b) Where a notice under section 1018 (4) (a) or an application under section 1023 is withdrawn and, but for the giving of such a notice or the making of such an application in the first instance, a wife would have been assessed to income tax in respect of her own total income (if any) and the total income (if any) of her husband for the year of assessment in which the notice was given or the application was made, as may be appropriate, then, in the absence of an election made in accordance with section 1018 (1) (4)), the wife shall be so assessed to income tax for the year of assessment in which that notice or application is withdrawn and for each subsequent year of assessment.

(5) Where an election is made in accordance with subsection (2) (a) (ii) for a year of assessment, the election shall have effect for that year and each subsequent year of assessment unless it is withdrawn by further notice in writing given jointly by the husband and the wife to the inspector before the 6th day of July in a year of assessment and the election shall not then have effect for the year for which the further notice is given or for any subsequent year of assessment

(6) For the purposes of the other provisions of this section and as the circumstances may require—

(a) a reference in the Income Tax Acts, however expressed, to an individual or a claimant, being a man, a married man or a husband shall be construed respectively as a reference to a woman, a married woman or a wife, and a reference in those Acts, however expressed, to a woman, a married woman or a wife shall be construed respectively as a reference to a man, a married man or a husband, and

(b) any provision of the Income Tax Acts shall, in so far as it may relate to the treatment of any husband and wife for the purposes of those Acts, be construed so as to give effect to this section.