

Separated and divorced persons: adaptation of provisions relating to married persons. FA83 s4; FA97 s5(a) 1026.—(1) Where a payment to which section 1025 applies is made in a year of assessment by a party to a marriage (being a marriage which has not been dissolved or annulled) and both parties to the marriage are resident in the State for that year, section 1018 shall apply in relation to the parties to the marriage for that year of assessment as if—

(a) in subsection (1) of that section “, where the wife is living with the husband,” were deleted, and

(b) subsection (4) of that section were deleted.

(2) Where by virtue of subsection (1) the parties to a marriage elect as provided for in section 1018 (1), then, as respects any year of assessment for which the election has effect—

(a) subject to subsection (1) and paragraphs (b) and (c), the Income Tax Acts shall apply in the case of the parties to the marriage as they apply in the case of a husband and wife who have elected under section 1018 (1) and whose election has effect for that year of assessment,

(b) the total income or incomes of the parties to the marriage shall be computed for the purposes of the Income Tax Acts as if any payments to which section 1025 applies made in that year of assessment by one party to the marriage for the benefit of the other party to the marriage had not been made, and

(c) income tax shall be assessed, charged and recovered on the total income or incomes of the parties to the marriage as if an application under section 1023 had been made by one of the parties and that application had effect for that year of assessment.

(3) Notwithstanding subsection (1), where a payment to which section 1025 applies is made in a year of assessment by a spouse who is a party to a marriage, that has been dissolved, for the benefit of the other spouse, and—

(a) the dissolution was under either—

(i) section 5 of the Family Law (Divorce) Act, 1996 , or

(ii) the law of a country or jurisdiction other than the State, being a divorce that is entitled to be recognised as valid in the State,

(b) both spouses are resident in the State for tax purposes for that year of assessment, and

(c) neither spouse has entered into another marriage,

then, subsections (1) and (2) shall, with any necessary modifications, apply in relation to the spouses for that year of assessment as if their marriage had not been dissolved.