

Personal Protection for Cohabiting Couples

LIFE ADVISORY SERVICES

We advise that your client seeks professional tax and legal advice as the information given is a guideline only and does not take into account your client's particular circumstances.

With the possible exception of the family home, the total value of all assets passing between two people who are not married or civil partners of each other, are liable to Inheritance and Gift Tax, regardless of how long the couple are living together. This includes the value of any life assurance benefits. So, where a cohabiting partner inherits other property, including a death benefit under a life assurance plan, the €16,250 stranger threshold could easily be exceeded.

When you are structuring life assurance for your cohabiting clients, whether or not Inheritance Tax will have to be paid on any payout from the contract will be decided by two things:

- Who will receive the plan proceeds on death (the beneficiary)?
- Who paid the premiums on the plan?

If the beneficiary did not pay the premiums, or if the beneficiary is not the legal spouse or registered civil partner of the person who paid the premiums, the plan proceeds will be liable to Inheritance Tax. Hopefully the following examples will clarify how this will work for your co-habiting clients.

Example 1

John Brown takes out Life Cover of €200,000 on his own life and pays the premiums by direct debit from his own bank account. John dies and based on the terms of his Will the €200,000 is paid to his cohabiting partner Mary Smith.

Assuming Mary inherited no other assets from John, her liability to tax is calculated as follows:

Mary's taxable inheritance is €200,000.

Threshold €16,250 exempt

Balance €183,750 taxed at 33% = €60,637

Mary receives €139,362 and not €200,000

Example 2

John Brown and Mary Smith take out "Dual Life" Cover of €200,000. John and Mary are joint owners, and pay premiums out of their joint account.

John dies and the €200,000 is paid to his cohabiting partner Mary Smith because she is the surviving owner.

Assuming Mary inherited no other assets from John, and Revenue agree that she has paid 50% of the premiums, she will be taxed on 50% of the benefit.

So, Mary's taxable inheritance = €100,000.

Threshold €16,250 exempt

Balance €83,750 taxed at 33% = €27,637.

Mary receives €172,363 and not €200,000

Example 3

Mary Smith takes out a "Life Plan" with Life Cover of €200,000 on John Brown's life i.e. Mary is the proposer / plan owner with John as the life assured. Mary pays the premiums by direct debit from her own bank account.

John dies and the €200,000 is paid to his cohabiting partner Mary Smith, as she is the legal owner of the plan.

Mary receives the full €200,000. She has no liability to Inheritance Tax, as she is both the beneficiary of the plan and the person who paid the premiums.

Things to think of when advising cohabiting couples

Personal Protection

When putting in place “**personal protection**” for cohabiting couples, as the examples have shown, arranging the contract on a single life “life of another” basis will avoid any potential liability to inheritance tax **but only where the plan owner actually pays the premium** i.e. the plan owner must have independent financial means.

If the plan is effected on a dual life basis then the cover will need to be increased to take into account the potential tax liability as shown in example 2. The amount of increased cover will again depend on the percentage inherited by the survivor and what, if any, contribution they have made to the plan.

Family Protection

When structuring “**family protection**” for your cohabiting clients it is important to remember that cohabitants have no automatic rights to their deceased partners assets under the Succession Act. So, if your cohabiting clients have no Will in place, the proceeds of a life assurance contract could end up in the hands of the deceased’s ‘next of kin’, their parents or even their brothers and sisters, if the arrangement is not structured correctly.

For more information please see our document “Family Protection for Cohabiting Couples” on Bline.

Mortgage Protection

When putting in place “**mortgage protection**” type cover, arranging the cover on a joint life first death basis may give rise to a potential tax liability. But also the inheritance of the property itself could also give rise to a tax liability for the surviving partner. The sum assured on the mortgage protection contract could be increased to cover any potential liability. The amount of increased cover will depend on the percentage of the property inherited by the survivor and what, if any, contribution they have made to the mortgage.

For more information please see our document “Mortgage Protection for Cohabiting Couples” on Bline.

For further information on how to structure life assurance arrangements for your cohabiting clients and for more details about the legislative and taxation changes resulting from the Civil Partnership Act and Finance (No 3) Act 2011 please see our various documents on Bline on this topic.

The legal and tax information included in this technical guide is currently correct but is subject to change. The examples included in this document are not based on any real individual circumstances and should not be constituted as advice in any particular instance.

CONTACT US

E-MAIL: advisoryservices@irishlife.ie

WEBSITE: www.bline.ie

WRITE TO: Irish Life, Lower Abbey Street, Dublin 1

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