## INCOME TAX - PLANNING

# Deadlines For Joint Income Elections

*If you own assets jointly with your spouse you can to some degree choose which of you should be taxed on any income they produce.*
*However, there's a strict deadline for notifying HMRC.*

*What should you do if you miss it?*

### Jointly Owned

One of the tax advantages of being married or in a civil partnership is that income that you derive from most types of asset which you jointly own can be manipulated to minimise the overall tax. The rules allow you to choose whether to be taxed on 50% of the income each or in proportion to your "beneficial ownership".

**Example.** Jack bought a house several years ago. When he married Diane a few years later they moved into her home. She transferred a 50% share of it to Jack and he transferred an equal-value share of his property to her - 30% of it to be precise. Jack's old home is let. HMRC's rules treat the rental income as taxable on Jack and Diane 50/50, but they can instead choose to split the income 70/30 for tax purposes.

**Tip.** Usually the reason for opting out of the 50/50 rule is where you'll save tax overall by dividing income differently. For example, where one spouse pays tax at a higher rate than the other, and the effect of attributing the income according to beneficial ownership reduces the amount taxable on the spouse who pays at the higher rate.

### Timing The Change

If Jack and Diane want to be taxed on 70% and 30% of the rental income the house generates they must send a joint statement to HMRC. It will be effective from the date of the latest signature on the form, but only if HMRC receives the statement known as **Form 17** within the next 60 days.

**Trap.** HMRC applies the 60-day deadline strictly. If the **Form 17** statement arrives later or goes missing it will refuse to apply it. However, if you posted it so that it ought to have reached HMRC in time, it can't refuse to apply the statement unless it has good evidence that you didn't actually post it when you said you did. HMRC's internal guidance confirms this.

**Tip.** If you get into a dispute with HMRC about whether your statement was posted in time the thing to do is send another freshly signed and dated statement immediately the dispute starts. Tell HMRC that it's to protect your position and is not an acceptance by you that the original statement wasn't sent on time.

### Can You Change Your Mind?

One possible fly in the ointment with **Form 17** statements is that they remain in force all the time you're married and living together, or until you change how much of the asset you beneficially own. Following on from our example, this means that if Jack and Diane had submitted a **Form 17** for the rental income to be taxed 70/30, this would continue even if this ceased to be advantageous to them. They can't revert to the 50/50 tax rule.

**Tip.** Jack and Diane could end the 70/30 taxation by changing their ownership shares of the property by even a small amount say to 71% and 29%.  The 50/50 rule will apply from the date of change. They don't need to tell HMRC until they report the income on their tax returns. HMRC may ask for evidence of the change of ownership.

*If your notification reaches HMRC more than 60 days after the date it was signed, HMRC will reject it.*
*If you posted it in time to meet this deadline tell HMRC immediately and it will usually accept it.*
*But if you were genuinely late sending the notice, you should sign and send another immediately.*