

Can I transfer my investment income to my spouse?

The rules for income from assets jointly owned by married couples can be tricky. There are a few things to take into consideration in order to make the transfer as tax-efficient and compliant as possible.

HMRC have outlined specific anti-avoidance rules to tackle situations where they consider you may be shifting income purely for the sake of saving tax. It's important to ensure that you're following the rules.

If only an income stream (for instance, rental income) is transferred to your spouse, and you continue to retain an interest in the capital value of the property, then you (the transferor) will continue to be taxed on the income.

If you would like to transfer the income and the tax obligation to your spouse, then you will also need to transfer an equal proportion of capital interest.

For example, if you would like to transfer 75% of the rental income to your spouse, a 75% interest in the capital value of the property must be transferred as well.

HMRC automatically taxes rental income at an equal fifty-fifty basis for married couples. If you wish to be taxed at a different (unequal) split, you must complete [Form 17](#) on the HMRC website. Form 17 is used to declare an unequal interest for jointly owned property. It must be completed within 60 days of making the transfer and you need to resubmit the form any time there is a change in the allocation of interest. If this is not done, then your

interest will automatically revert back to a 50/50 split.

Transfers and taxes

Luckily, you do not pay Capital Gains Tax (CGT) on transfers of capital assets between spouses, as long as you were not separated at the time of the transfer and it was not a business-related transaction.

However, Stamp Duty Land Tax (SDLT) is still payable on transfers of property between spouses if the amount transferred is over the SDLT threshold, which is currently £125,000.

For example, let's say you own a property and have an outstanding mortgage of £300,000. If you were to transfer 50% of the property to your spouse, your spouse also takes on 50% of the mortgage (£150,000).

SDLT is charged on the amount of "consideration" given. In this case, £150,000 of "consideration" has been transferred, which is above the SDLT threshold.

Based on the current SDLT rates, your spouse would pay 0% on the first £125,000 and 2% on the remaining £25,000. This comes to an SDLT payable of £500.

Other considerations

If the investment property was previously your main residence, please be advised that you may lose private residence relief.

A transfer of ownership doesn't mean you need to transfer the legal title. However, it would be beneficial to write an agreement about how the property is transferred to satisfy HMRC.