This chapter deals, in particular, with the taxation of husband and wife. The independent taxation system operating from 6 April 1990 is covered. Regarding the rules which applied for 1989–90 and earlier years, refer-ence should be made to previous editions of this book. (Some of the rules for independent taxation have been mentioned in Chapter 3.)

6.1 Independent taxation of husband and wife

(FA 1988 Ss33–35 & Sch 3)

From 6 April 1990, you and your spouse are each taxed separately on all of your income and capital gains. Each has a single person’s relief and income tax rates (5.0.1). Similarly you each have a full capital gains tax annual exemption (£7,500).

Up to 5 April 2000, married couple’s allowance (3.2.1) amounting to £1,970 for 1999–2000 was available for those under 65. A higher married couple’s allowance was generally given to those entitled to age allowance (3.2.10). For 1994–95, relief was restricted to 20 per cent (3.2.1). The relief was further restricted to 15 per cent from 1995–96 and 10 per cent for 1999–2000. After that, the relief was generally with-drawn, an exception being where at least one party to the marriage was born before 6 April 1935.

Normally, married couple’s allowance goes to the husband. However, if his income is insufficient to use it, part or all can be transferred to the wife. In the year of marriage, the married couple’s allowance is reduced by one-twelfth for each month between 6 April and the marriage date.

A special rule applies from 6 April 1993. You are able to elect for the married couple’s allowance to be split equally between you or go entirely to the spouse (3.2.1). Otherwise it will be used as before.

Income from jointly owned property is taken as split equally between husband and wife, subject to the right to make a joint declaration to the contrary. The effect of the election is to split the income in the ratio of the respective shares of husband and wife in the asset. Interest on mort-gages in your joint names was split equally between you. However, you could elect for any different split to apply, which could well save tax.
The previous wife’s earnings election (6.4) has no validity for 1990–91 and subsequent tax years. However, as mentioned above, all income is taxed separately, as are capital gains. As a result, your spouse and yourself will each have the annual capital gains tax exemption (20.6) for 1990–91 and subsequently. Thus each has £7,500 exemption for 2001–02.

An election for transitional relief (3.2.1) is available where a couple might have been worse off in 1990–91, because most of the income belongs to the wife and the husband’s personal allowance exceeds his own income. The relief is limited for 1990–91 and future years to the husband’s excess personal allowance.

### 6.2 When you marry

When you marry, various rules apply to both of you (6.1). Essentially you will be taxed separately on your income and capital gains, remaining responsible for your own tax returns. Thus at the end of the year in which you marry both you and your wife have to complete income tax returns.

Regarding the married couple’s allowance (3.2.1) for the tax year of marriage (if available), this is restricted pro rata for every completed month during that year prior to your date of marriage.

### 6.3 Separate assessment

*TA 1988 Ss283–285*

Prior to 6 April 1990, despite the fact that it was the husband who was taxed on both his own and his wife’s income, it was nevertheless possible for a married couple to be assessed separately and to pay their respective shares of tax separately. However, from 6 April 1990, husband and wife are both taxed and assessed on their own income (6.2). Separate assessment was not the same as the separate taxation of your wife’s earned income (6.4). Full details are given in earlier editions of this book.

### 6.4 Separate taxation of wife’s earnings

*TA 1988 Ss287 & 288*

Before the introduction of independent taxation from 6 April 1990, it was still possible to elect for the wife to be separately taxed on her earnings up to 5 April 1990 as if she were a single person. The husband was then