

PROMOTION

Navigating the pitfalls and tax implications of UK and Non-Resident divorces

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Divorce is always difficult, but there are additional tax complications if one partner is non-domiciled or has non-resident status. The earlier tax implications are considered, the better the results and we frequently navigate the pitfalls to maximize the tax reliefs available for our UK and overseas clients.

Tax provisions apply equally to divorces and the cessation of civil partnerships; and unbeknown to many, the permanent separation timing will make an impact, especially with capital gains tax.

Couples living together during the separation tax year may transfer assets to each other during the year on a 'no gain no loss' basis. However, for any subsequent years before the final dissolution order or decree

absolute, assets are transferred at market value, and may generate significant tax liabilities. Post decree absolute transfers are not automatically at market value unless they are not 'on arm's length terms'.

With regards to property, the main residence is predominately exempt from Capital Gains Tax, but reliant on the occupation of taxpayer, except for the final 18 months. Therefore, with a lengthy separation and divorce process, careful planning is essential to preserve tax reliefs for the non-occupying spouse or civil partner. In addition, should the marital home be retained to ensure the protection of young or vulnerable family members, the tax circumstances vary again.

Tax benefits may be gained from dividing jointly owned investment

properties. For non-residents, Non-Residential Capital Gains Tax 'NRCGT' only applies to gains on UK residential property from 6 April 2015. A tax return must be submitted to HMRC within 30 days of disposal, along with payment of the tax.

Importantly, a payer is not able to claim tax relief on maintenance payments and they are tax-free for the recipient in the UK, but some counties will apply tax to spousal and child maintenance. In all cases tax advice in the local jurisdiction should be sought. For a resident non-domicile remittance basis user, transfers should be carefully considered to avoid taxable remittances. ♦

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