Understanding the tax implications of divorce

Tax may not be uppermost on the minds of a couple getting divorced, but a well-drafted settlement can minimise tax liabilities during the upheaval. Here is a brief summary of some of the key tax points to bear in mind.

For people who are getting divorced it's important not to underestimate the tax impact when drawing up a settlement.

Income tax, capital gains tax (CGT) and inheritance tax (IHT) all need to be addressed and it's vital to get expert advice on these and other tax-related issues.

CGT ground rules

While there's no immediate IHT or income tax charge for assets transferred under a divorce settlement, there are immediate CGT considerations following permanent separation.

Gains on residential property are taxed at 18% for basic rate taxpayers and 28% for higher rate taxpayers. Most other gains are generally taxed at 10% or 20%. Additionally, 10% Business Asset Disposal Relief (formerly Entrepreneurs' Relief) must be claimed by no later than one year from the 31 January following the tax year of the asset's disposal, and is subject to a lifetime limit of £1m.

Cars, assets valued below £6,000 and foreign currency are exempt from CGT.

Tax implications of property sales

Where a family home is sold under a divorce settlement, the gain is CGT-exempt, providing contracts are exchanged within nine months of one spouse leaving the property.

Equally, if the family home is solely in the departing spouses' name or jointly owned, no CGT applies if it's transferred to the remaining partner and it has been their main residence up to the point of transfer. CGT does apply if the departing spouse has elected another property as their main residence.

Where foreign properties are transferred under the divorce settlement, foreign currency movements may impact CGT and local taxation issues must also be considered.

Income tax

For income tax purposes, individuals are treated as 'no longer married' from the date of permanent separation. Spouses are taxed independently during separation and after a Decree Absolute.

Any income from interest-earning assets, such as shares or bank accounts, allocated to an individual in a divorce settlement is subject to income tax.

Inheritance tax

Throughout a period of separation and until a Decree Absolute is pronounced, transfers between spouses or civil partners are exempt from IHT.

There's a £325,000 lifetime limit for transfers made from a UK domiciled spouse to a non-domiciled spouse, but no limit for a non-UK domiciled spouse transferring to a UK-domiciled spouse, nor where both parties are non-domiciled.

After the Decree Absolute, property transfers are IHT-exempt if there's no 'gratuitous benefit' for the recipient. Other kinds of transfers are treated as potentially exempt, providing the donor survives for seven years afterwards. Maintenance payments are also IHT-exempt.

Given the financial complexities involved, we strongly recommend getting specific advice before making a divorce settlement.

For further advice and information, please visit:
https://tinyurl.com/bv5fvvh7
or speak to your usual Shipleys contact.

Post-Brexit rules impacting British-owned properties in France

For Britons owning a holiday home or other property in France, some recently introduced rule changes may have significant financial implications.

For example, as a UK citizen you can face a surcharge of as much as 60% on local council tax charges, depending on the property's location.

Since Brexit, Britons can only spend 90 days in the EU in any 180-day period without a visa. They face increasing levels of paperwork, rising travel and removals charges, stricter Covid testing rules, and rising duties between Britain and the EU. All factors that are pushing up the cost of ownership.

Selling up is getting more costly, too. For any sale exceeding €150,000 you're required to appoint a fiscal representative charging between 0.7% and 1.5% of the proceeds. You can at least choose your own representative, so it pays to find one with reasonable fees.

On top of that, any non-EU citizens selling a French property now have to pay a higher social levy of 17.2%, which, combined with increased capital gains tax of 19%, can result in charges totalling up to 36.2% on your sale.

If you have a property in France we can help you navigate some of the post-Brexit taxation changes and find suitable, affordable representatives locally. More at: *https://tinyurl.com/htfrmy3y*

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