

Capital Gains Tax Summary in the event of Divorce

Impact of Time Frame



All transactions take place at no gain no loss. **There are no CGT implications for transactions during this time**

CGT. All transactions take place at market value. **It is not advisable to make any transfers at this time without seeking advice.**

All transactions take place at arms length.

		Main Home	Investment Property	Assets under £6,000	Cars	Business Assets
In tax year of separation	Transfer to Spouse	No CGT	No CGT	No CGT	No CGT (no allowable losses)	No CGT
	Sale of Asset	No CGT (provided PPR conditions met) Seek Advice	Yes CGT on gain	No CGT	No CGT (no allowable losses)	Possible CGT (confirm if gift relief applies) Seek Advice
Post Divorce	Transfer to Spouse	No CGT (provided PPR conditions met) Seek Advice	No CGT (provided ROR conditions met) Seek Advice	No CGT	No CGT (no allowable losses)	Possible CGT (confirm if gift relief applies) Seek Advice
	Sale of Asset	Possible CGT implications (either spouse >18 months absent from home) Seek Advice	Yes, CGT on gain	No CGT	No CGT (no allowable losses)	Possible CGT (confirm if gift relief applies) Seek Advice

Reliefs Checklist

If your client owns any of the below assets they should speak to a tax adviser about claiming tax reliefs

Asset	Relief
Family Home	Principle Private Residence Relief may apply. This exempts all or part of a gain which arises on a property which an individual has used as their main home.
Family Home currently let out	Lettings Relief may apply. This can reduce any chargeable gain on a main home.
Investment Properties	Roll Over Relief may apply. If both individuals jointly own investment properties this relief removes the CGT on transferring properties to either spouse outright.
Shares (unquoted business)	Entrepreneurs Relief may apply. Reduces CGT to 10% on qualifying profits if selling all or part of a business.
Business Assets (unquoted business)	Gift Relief may apply. Reduces the immediate charge to CGT and transfers it to the person receiving the asset.

Additional Points

- If the main home is in name of one spouse but the court rules the other spouse has an equitable interest in the property they are usually treated for tax purposes as if the interest existed from the outset.
- If the other spouse is only entitled to cash they are not treated as owning an interest in the property. There are no deductions available for the amount payable to the ex spouse.
- Stamp Duty Land Tax will not apply where the transfer is due to a court order even if one spouse takes on the mortgage.