

# Divorce Factsheet

**Divorce is a difficult time, no matter what the circumstances. While getting to grips with your financial situation both during, and following a divorce is crucial, making sure you understand the tax implications of any proposed action or settlement is also key to ensuring the best resolution.**

At Claritas we are experts in making sure you have the right tax advice at this time. No matter your previous financial position, we can help you can make informed decisions and have confidence that your tax position has been considered in the most beneficial way.

We can advise on capital tax implications of transferring assets, income tax considerations in the year of divorce/separation and beyond, as well as helping you look forwards, towards protecting your wealth and your family, as you move into a new future.



## Areas to think about:

### Year of Separation

As capital gains tax is one of the biggest tax considerations on divorce, taking action during the tax year of separation can be key to minimising tax liabilities.

Disposals made between spouses, provided they take place before the end of the tax year of separation take place on a nil gain/nil loss basis, meaning CGT at up to 28 can be avoided if action is taken swiftly. Note however, that this may accelerate tax liabilities, particularly where residential property is concerned.

### The Family Home

The tax position in relation to the matrimonial home can be very complex and will depend on the circumstances of each individual case. Scenarios could include one spouse occupying a new property as a main residence, moving into temporary accommodation, or the departing spouse retaining a stake in the home until a future sale (commonly when children reach adulthood).

The timing of a sale and the tax treatment that applies, together with any relevant elections that could be made to preserve the main residence exemption for capital gains tax purposes, should all be considered when reviewing the position in the round

Furthermore, the new nine-month final period of deemed occupation has reduced the thinking time available for some situations. Getting the right advice on the family home is therefore crucial

### **Maintenance and Child Benefit**

There are specific tax treatments of maintenance payments that can mean the tax considerations ought to be taken into account as part of any settlement, rather than agreeing sums without understanding the full tax implications.

Where a High-Income Child Benefit charge is in point, separation could mean that one party becomes entitled to claim this in full, or that an income tax charge is no longer appropriate. Again these issues should be considered as part of the overall financial picture.

### **Pensions and Pension Sharing Orders**

Pensions are included in consideration of assets available for distribution as part of a settlement, but the tax implications of a PSO, or alternatively receiving a cash lump sum ought to be considered in the round, to ensure an equitable settlement is reached, considering current and future tax implications.

In addition, recent tax cases have meant that greater scrutiny may be in place where pension assets are diverted from divorcing spouses, such that specialist advice should be sought in this area if this is a consideration in your situation.

### **Acting as a court expert**

Our Private Client team are happy to act as a Single Joint Expert in cases where the tax implications of alternative means of settlement are required.

This could involve calculating what capital gains tax is payable, or which reliefs may be claimed, to ensure these amounts are taken into account in drawing up settlements.

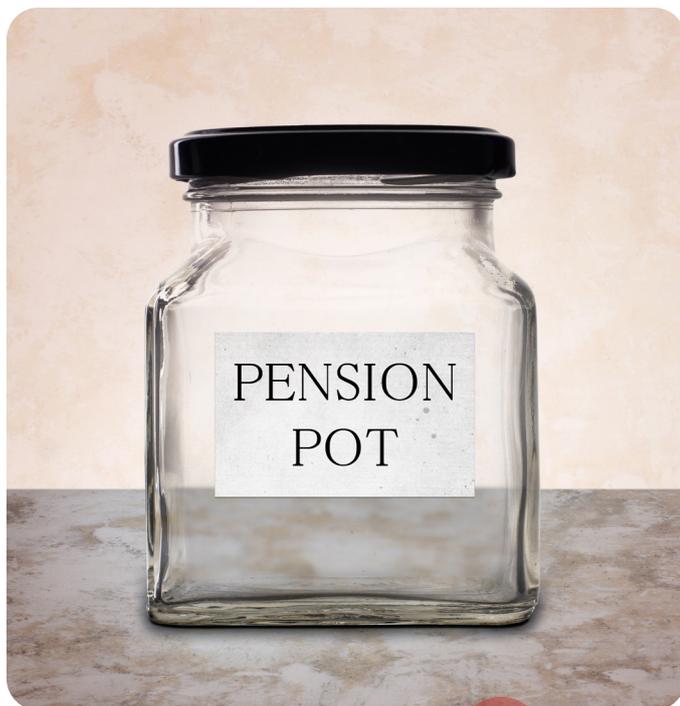


## Trusts and Will Planning

Sometimes, settlements will include the use of trusts to protect assets for future generations, notably children.

### We can help you understand;

- When a trust is appropriate to preserve assets
- The exact nature of entitlements under a trust
- The tax implications of drawing income, or capital from a trust structure



In addition, your changing circumstances are likely to mean that a full review of your Will and your current IHT position would identify any issues arising.

This would allow you time to take action to ensure, where possible, assets are protected for the next generation and tax liabilities deferred.

## Meet the Claritas Team:

For more information or to discuss any of the issues raised in this factsheet, please contact one of our experts below:



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