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Capital gains tax liabilities are factor in partners' settlements

WHEN beginning to consider the division of the finances after the breakdown of a marriage or civil partnership, it is important to be aware of the circumstances that may give rise to a capital gains tax (CGT) liability – and to take specialist tax advice, alongside legal advice, to ensure any tax you might have to pay is taken into account.

In very broad terms, CGT is payable on the total gains (minus allowable losses) made during the course of a tax year on disposals of chargeable assets. Each person has an annual tax free allowance (currently £11,100) and thereafter CGT is charged at 18 per cent to basic rate taxpayers, and 28 per cent on certain gains, or to higher rate or additional tax rate payers.

Transfers between spouses or

civil partners who live together, and transfers taking place up to the end of the tax year of their separation, are deemed to have no gain and no loss and therefore no CGT is payable on that transfer.

After the end of that period, but before the final decree of divorce or dissolution, the transfer is deemed to have taken at market value, which means there might be a chargeable gain or an allowable loss.

A spouse or civil partner who leaves the family home, which they have occupied as their main residence for the whole period of ownership, and transfers his or her share to their ex may be entitled to Principal Private Residence Relief, provided the transfer takes place within 18 months of the date he or she left. After that date, relief might still

be available where the family home is transferred to the remaining spouse or civil partner under a settlement, provided certain conditions apply.

Different provisions apply when the property is to be held in trust, for example when it remains in joint names and the sale is postponed until a later event, such as when the children reach 18 years.

CGT is a complex area, and taking the right expert tax and legal advice from the outset could prevent any unwanted surprises later on after a settlement has been concluded. If you would like to know more, please contact me at vicky.gallier@knights-solicitors.co.uk to arrange a meeting.

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