



## Separation and divorce

Handling the breakdown of a marriage or civil partnership.

Getting married or entering into a civil partnership is a moment to cherish, and with it comes both an increased emotional and financial bond.

It marks the start of a new chapter of what you hope will be the rest of your lives, but for some people the concept of married bliss is unfortunately short-lived.

Last month marked "divorce month" for relationship charity Relate, which reported an 84% surge in traffic to its website in January.

Despite that, the most recent figures from the Office for National Statistics, from 2017, found there were 101,699 divorces and 338 civil partnership endings in England in Wales – down 4.9% on the previous year, and sitting at their lowest rate since 1973.

When a couple separate or divorce, one of the last things they might be thinking of is the tax effect. However, timing could make all the difference.

Separating just after the new tax year on 6 April 2019 will provide you with the most time to make plans around your assets, along with a host of other considerations.

### Immediate concerns

Some 455 online applications for divorce were submitted between 24 December 2018 and 1 January 2019, with 13 of those filed on Christmas Day.

For those people, it marked the end of the road – but for others who are separating, the best initial strategy is to maintain the status quo until the dust settles and the separation process is formalised.

Ensure the bills continue to be paid, the children (if any are involved) are taken care of, and try to maintain the security of a roof over your heads.



Until you reach a mutual agreement on the division of your assets, both you and your spouse or civil partner are jointly responsible for debt, such as credit cards or mortgages.

At this early stage, you should also consider taking advice – both from a legal professional and from a financial adviser or accountant.

Certainly from a financial perspective, this will enable you to consider the division of any jointly-owned assets early in the divorce process and help mitigate any potential tax implications.

### Financial agreements

It's important to formally recognise the date when your separation became permanent, with no hope of reconciliation, as certain tax breaks only apply up until the end of the financial year the split occurred.

Usually, no capital gains tax (CGT) is owed on the transfer of assets between married couples or civil partners.

This exemption is lost once your relationship has legally ended, and it no longer applies after the end of the financial year in which separation occurs.

After this point, you may have to pay CGT on the transfers of any assets worth more than the individual exemption of £11,700 in 2018/19. This is rising to £12,000 for 2019/20.

Assets in this case include any money, property, savings – including any individually-owned or jointly-owned pensions – and investments the pair of you own.

You will need a solicitor to draw up a **consent order**, which is a legally-binding document that confirms how you and your spouse or civil partner will divide such assets.



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Splitting after the start of a new tax year on 6 April 2019 allows the most time to untangle your finances, while the worst-case scenario would be to separate in the final days, weeks or months before the end of the tax year.

If assets are transferred in the tax year that follows your separation, you will still be considered connected persons until the **decree absolute**, or **dissolution order**, has been issued to formally end your marriage or civil partnership.

## Property

Unless you've got any gold bars stashed under your floorboards, your home is probably the most valuable asset you and your spouse or civil partner own, and its transfer could be liable for CGT.

You and your spouse or civil partner can only count one property as your home at any one time to qualify for **private residence relief**, so it may be lost on your matrimonial home if you buy another property after leaving.

During a prolonged period of separation, any absence from your matrimonial home of more than 18 months may cause a gap in your relief.

If one of you continues to live in the matrimonial home to raise any children you have, the court may put in place a *Mesher Order* which will preserve the relief for the spouse that has vacated the property until the house is sold at some time in the future.

## Pension rights

The second largest asset owned by married couples and civil partners is pension savings, although where you live in the UK can affect how much you're entitled to.

The total value of both parties' pension pots is taken into account when splitting assets in England, Wales and Northern Ireland, while only the value that has been built up during the marriage or civil partnership is considered in Scotland.

While the rules allow pension savings to be split after divorce, research suggests they are failing to deliver equality as part of the divorce settlement.

Royal London claims divorced women end up with less than a third of the average pension wealth held by a married couple, which makes seeking good financial advice all the more important.

Pension savings are usually split one of three ways: **offsetting**, **earmarking**, or **sharing**.

Offsetting is where you or your spouse or civil partner retains the rights to the pension and the other party receives other benefits, such as the family home or investments.

Earmarking sees the pension rights stay in the scheme and a lump sum is set aside for the former spouse or civil partner.

Sharing requires a court order to transfer the ownership of a pension and sees the scheme split so both you and your old flame have separate pensions.

The latter option can impact on your lifetime allowance (£1.03m in 2018/19, rising to £1.055m in 2019/20), so make sure you take expert financial advice on this crucial issue.

## Update your will

Divorce does not automatically cancel an existing will but merely means the divorced spouse or civil partner can no longer benefit.

However, you should always update your will when your circumstances change, and there are few changes as dramatic or substantial as going through a divorce.

It's generally advisable to cancel your will outright and rewrite it completely from scratch in such cases, especially if there are children or grandchildren involved, to prevent any prolonged disputes or confusion.

[Talk to us about your financial plans.](#)

### Important information

The way in which tax charges (or tax relief, as appropriate) are applied depends on individual circumstances and may be subject to future change.

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