

Separation and Divorce

It is an unfortunate fact of modern life that many marriages do not survive. When separation, divorce, or dissolution occurs, there will almost inevitably be some tax consequences.

Allowances

The married couple's allowance has been withdrawn, except for those couples in which at least one spouse or civil partner was born before 6 April 1935. The allowance will cease at the end of the tax year in which separation occurs.

The Child Tax Credit, introduced in April 2003, is available to each former spouse or civil partner with one or more children living with him or her (ie, each spouse will be entitled to the credit, as a single parent, if one or more children live with him or her).

Maintenance payments

Maintenance payments qualify for tax relief only where a spouse or civil partner or former spouse or former civil partner was born before 6 April 1935 and only if they are legally enforceable. This will be the case if they are made under a court order, a Child Support Agency assessment, or a legal deed of separation. Such maintenance payments must be made to your divorced or separated spouse or civil partner (if they are not remarried, or have not entered into a new civil partnership) for the benefit of him or her or of your child under twenty-one living with him or her.

The maximum tax reduction available is £280.

Maintenance payments received do not count as taxable income.

Transferring assets

Assets transferred between spouses or civil partners in a tax year during which they have lived together, including the year of separation, are exempt from capital gains tax (CGT) and inheritance tax.

From the end of the year of separation until the decree absolute, the former spouses or civil partners are still regarded as connected persons for CGT purposes, and therefore all transfers between them will be treated for tax as if made at full market value, even if no consideration changes hands.

Thereafter, transfers will be treated as 'at arms length' and therefore transfers will, for CGT purposes, be treated as disposals or acquisitions for only such amount as changed hands.

Please call us if you would like further help or advice in this area.