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CGT AND FAMILY LAW – WILL YOU HAVE TO PAY?

Before December 2006 Capital Gains Tax "roll over relief" usually applied when people transferred the ownership of their home between themselves after the breakdown of their relationship. Now a new law means that this tax exemption may not apply and you will need to even more carefully consider how you arrange your property settlements to minimize the impact of CGT.

The ATO will now take into account the way in which both the Transferor and Transferee used the property when determining whether the CGT exemption will apply. This means that property transfers

that were previously tax free may be hit with tax bills when a home is sold.

While the Capital Gains Tax payable may not always be a significant sum of money, if there is a long period between your separation and your property settlement, or there is a boom in the property market, the tax payable when you eventually sell may be substantial.

CGT roll over relief now also applies to "Binding Financial Agreements" and "Termination Agreements" as well as Court Orders. These written agreements are not registered with a Court, but are legally binding. Being able to

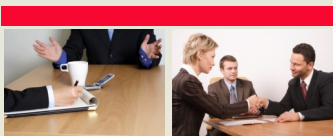


use a financial agreement instead of having to obtain a Court Order could save you a lot of time and money.

If you need help arranging your property settlement, please call 1300 727 813, to make an appointment with one of our experienced family lawyers.

EXAMPLE:

John and Jane own a house together as their main residence for tax purposes. After their separation, Jane leaves the home and buys a new property that becomes her main residence. Twelve months later, John and Jane agree to property settlement Court Orders. Under the Orders, Jane will transfer her half of the house to John. If John later decides to sell the house, he may now have to pay part Capital Gains Tax on the increase in the value of the home for the 12 months between when Jane bought her new home and the date the property settlement was agreed.



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