How have changes to Capital Gains Tax impacted divorcing couples?

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CGT for Couples

Under current rules, you do not pay Capital Gains Tax (CGT) on assets you give or sell to spouse or partner, it is treated as a **no gain/no loss transfer**.

This means that an asset is passed to the partner and treated as if they had originally purchased it. CGT will only become relevant if/when the receiving partner comes to **dispose of the asset**.

The old rules

Previously, when a couple are divorcing or separating, the pair only had **until the end of the tax year** in which they separated to make use of the no gain, no loss transfer of assets.

The rule opened many people up to tax liabilities when they were transferring assets during the separation process.

The new rules

In **April 2023**, HRMC changed the rules so that spouses and civil partners are no longer required to transfer all capital assets in the tax year of separation.

Instead, they will now have the **three immediate tax years** following separation before they will be liable for CGT.

Rules for residences

The old rule:

A spouse or civil partner who still retained an interest in the couple's former home after moving out **could not claim main residence relief** in full on a future disposal when it was sold.

Rules for residences

The change:

Individuals retaining a share in the former matrimonial home now have the option to **claim main residence relief** in full if they dispose of it in the future.

Subject to certain conditions, you will be able to treat the period you no longer lived in the home **as if it had been your main residence** until the time of sale.

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