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# smartmoney

GUIDE TO

## FINANCIAL ADVICE DURING DIVORCE

*Your path to confidence and a secure future*

SEPTEMBER 2024

GUIDE TO

# FINANCIAL ADVICE DURING DIVORCE

Your path to confidence and a secure future

Welcome to our *Guide to Financial Advice During Divorce*.

Divorce can be bewildering, especially when managing your finances. However, understanding your options can make the process more manageable. Financial concerns may not be your first thought during a marital breakdown. Still, given the significant impact divorce can have on your financial future, it's crucial to take proactive steps to safeguard your financial security.

Often, decisions are made in emotionally charged settings, and the financial ramifications may not become apparent until much later. Involving professional financial advisers alongside your solicitor can be invaluable. People frequently consult financial advisers after a divorce settlement is agreed upon, but engaging a financial planner early on can help shape the settlement more effectively.

## Role of professional advice

Your solicitor will handle the legal aspects of your divorce, while your professional financial adviser will focus on the long-term financial implications of your decisions. They will guide you throughout the process and beyond, helping you understand your financial situation thoroughly. They can also help to relieve the burden of decision-making and administration by assisting with paperwork and meeting deadlines.

Planning for your financial future post-divorce is imperative. Your needs and circumstances will likely change, making budgeting a necessity. Obtaining a copy of your credit report is a good starting point, particularly if you need a new mortgage.

## Tax implications of divorce

Divorce is a complex process that involves the careful division of assets to meet the needs of both parties while minimising the tax impact. A vital aspect of a divorce settlement is understanding how it will influence your tax position, including Income and Capital Gains Tax. During a specific window, spousal exemption applies, and assets can be transferred on a no-loss, no-gain basis, which can help mitigate some tax liabilities.

However, once this period lapses, you may be liable for Capital Gains Tax on certain assets.

Navigating these intricacies can be daunting, but this is where expert financial advice becomes invaluable to guide you through the process, helping you attain a favourable outcome while considering all relevant tax implications.

After the divorce, the familiar landscape of your financial life may be significantly altered, leading to numerous questions about your future. One of the most pressing concerns is whether you will have enough money to sustain your lifestyle. While this is challenging, your professional financial planner will provide the clarity you need through cashflow modelling.

This sophisticated technique projects your current financial status (income, expenditure, assets and liabilities), helping identify potential shortfalls. By analysing your monetary inflows and outflows over time, cashflow modelling offers a clearer picture of your financial future,



empowering you to make informed decisions and plan confidently.

Your financial adviser will ensure you have the support and guidance needed to navigate this transitional period. They will help you understand your financial standing, set realistic goals and develop strategies to achieve them. Whether planning for immediate needs or securing long-term financial stability, their expertise is crucial in helping you move forward with confidence and peace of mind.

### **Pensions and divorce**

Pensions often represent one of the most significant financial assets in a divorce settlement, making it crucial to address them effectively. Seeking professional financial advice early on is essential to navigate the complexities and ensure a fair outcome. There are three primary ways to handle pensions during a divorce: pension sharing orders, pension offsetting, and pension attachment or earmarking.

A pension-sharing order is one of the most straightforward methods, as it divides the pension assets between the divorcing couple, providing a clean break. This means that each party receives their share of the pension pot, which they can manage independently. The

advantage of a pension-sharing order is its clarity and finality, allowing both individuals to move forward without future financial entanglements related to the pension. However, the process can be complex and may involve significant legal and administrative work to implement the order correctly.

Pension offsetting, on the other hand, involves balancing the value of the pension against other assets within the marital estate. For instance, one spouse may retain the entire pension, while the other might receive an equivalent value in property or other assets. While this method can be flexible and cater to the unique needs of the divorcing parties, achieving a fair split can be challenging. Valuing pension benefits against tangible assets like real estate requires careful consideration and expert valuation to ensure neither party is disadvantaged.

Pension attachment or earmarking directs a portion of the pension benefits to the ex-spouse when the pension pays out. Unlike pension sharing, this method does not provide a clean break, as the pension remains in the original holder's name. The ex-spouse receives the agreed portion of the benefits upon retirement.

While pension attachment can be more straightforward to arrange and implement, it

ties the financial futures of divorced individuals together, potentially leading to complications. Additionally, the ex-spouse depends on the pension holder's decisions about retirement timing and fund management, which may not always align with their interests.

Understanding these options and their implications is critical in making informed decisions during a divorce. A professional financial adviser can provide invaluable assistance, offering tailored advice and helping you navigate the legal and financial intricacies involved. They can evaluate each method's benefits and drawbacks based on your specific circumstances, ensuring you achieve a fair and manageable settlement.

Addressing pensions effectively in a divorce requires careful planning, expert guidance and a thorough understanding of available options. By engaging a financial adviser early in the process, you can ensure that your long-term financial security is safeguarded, allowing you to move forward with confidence and peace of mind.

### **Savings and investments**

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Dividing savings and investments is generally more straightforward than dealing with pensions, but there are still significant complexities, particularly concerning tax consequences and potential charges. Seeking professional financial advice is essential to navigate these issues effectively.

Individual Savings Accounts (ISAs) present a unique challenge in divorce settlements because they can only be held in one name. When ISAs are divided, the associated tax benefits are lost, which can considerably impact the financial outcome. Handling ISAs with care and consideration during the division process is critical.

Offshore bonds, often used for tax deferral benefits, require meticulous planning to ensure that any division does not trigger unintended tax liabilities. Given the complexity and potential pitfalls associated with these financial instruments, professional guidance is indispensable.

Understanding the implications of dividing savings and investments requires thoroughly analysing each asset and its associated tax liabilities. A financial adviser can provide invaluable assistance, offering tailored advice

to help you navigate these challenges. They can evaluate the tax implications, potential charges and the best strategies for dividing these assets to ensure a fair and equitable settlement. Engaging with a professional financial adviser early in the process ensures you have the support to address these financial complexities.

### **Business assets**

Business owners often overlook that their ex-partner may be entitled to a share of the business during a divorce. In most cases, the court considers all assets, including business assets, unless legal paperwork specifies otherwise, such as a prenuptial or postnuptial agreement.

The family court strives to avoid disrupting a business's operations, as the business's continuity can be critical for the owner's livelihood, employees and other stakeholders. However, there are instances where breaking up or selling the business is the only viable solution to achieve a fair division of assets. This can happen if the business is the primary asset and there are no other sufficient assets to balance the division. Additionally, selling it might be the last resort if the business can only be divided with significant detriment to its value or operations.

Navigating the complexities of dividing business assets requires careful consideration and strategic planning. Your professional

financial adviser is crucial in this process, helping you understand your options and make informed decisions. They can assist in valuing the business accurately, considering factors such as market conditions, financial performance and future earning potential. This valuation is essential in negotiations and court proceedings to ensure a fair settlement.

Your financial adviser can also help you explore various settlement options that allow you to retain business control while providing your ex-partner with fair compensation. For example, you might negotiate a buyout agreement, agreeing to pay your ex-partner a lump sum or structured payments over time in exchange for their share of the business. Alternatively, other marital assets might be allocated to your ex-partner to offset the value of their share in the business.

In some cases, restructuring the business might be necessary to facilitate the division of assets. This could involve separating certain divisions or assets of the business to create distinct entities, making it easier to divide without disrupting operations.

### **Capital Gains Tax (CGT) liabilities**

Effective from 6 April 2023, new regulations have extended the period when separating partners can transfer assets without incurring Capital Gains Tax (CGT) from one year to





three years. This extension gives divorcing couples more time and flexibility to manage and finalise their asset division without the immediate pressure of CGT liabilities. The additional time allows for a more thoughtful and equitable distribution of assets, ensuring that both parties can consider their long-term financial stability.

The primary advantage of this extended period is the reduction of financial strain during an already challenging time. Couples now have the opportunity to negotiate and settle their financial matters more amicably without the rush to avoid tax consequences within a short window. This can lead to more balanced and fair settlements, as decisions can be made with a clear mind and thorough understanding of each party's needs and future plans.

However, it is important to note that CGT liabilities may still arise in the future. For instance, if an asset received from a partner is sold at a later date, CGT may be payable on any gains realised from the sale. This underscores the importance of careful financial planning and consideration of potential tax implications when dividing assets.

Once the divorce is finalised, it is crucial to regularly review your finances, assess your tax position and ensure that your financial plan aligns with your current and future needs. A comprehensive financial review should include evaluating your new income sources, expenses, investments and any outstanding liabilities. This process helps identify gaps or areas requiring adjustment to secure financial wellbeing.

Engaging with a professional financial adviser will be invaluable during this time. They can provide expert guidance on managing your finances post-divorce, help you understand the tax implications of asset transfers and develop a tailored financial plan that supports your goals. Regular financial reviews and adjustments will ensure that your financial strategy remains aligned with your evolving circumstances, providing peace of mind and financial security as you move forward. ■

### **READY TO TAKE THE FIRST STEP TOWARDS SECURING YOUR FINANCIAL FUTURE TODAY?**

Divorce can be a complex and uncertain period, but you don't have to navigate it alone. We're here to provide you with tailored advice that meets your unique circumstances, ensuring you make informed decisions every step of the way. Contact us now for further guidance and support, and let us help you build a stable and prosperous future.

THIS GUIDE DOES NOT CONSTITUTE TAX OR LEGAL ADVICE AND SHOULD NOT BE RELIED UPON AS SUCH. TAX TREATMENT DEPENDS ON THE INDIVIDUAL CIRCUMSTANCES OF EACH CLIENT AND MAY BE SUBJECT TO CHANGE IN THE FUTURE. FOR GUIDANCE, SEEK PROFESSIONAL ADVICE.

DIVORCE SETTLEMENTS ARE NOT REGULATED BY THE FINANCIAL CONDUCT AUTHORITY.

CASHFLOW MODELLING IS NOT REGULATED BY THE FINANCIAL CONDUCT AUTHORITY.

THE VALUE OF YOUR INVESTMENTS CAN GO DOWN AS WELL AS UP, AND YOU MAY GET BACK LESS THAN YOU INVESTED.

THE TAX TREATMENT IS DEPENDENT ON INDIVIDUAL CIRCUMSTANCES AND MAY BE SUBJECT TO CHANGE IN FUTURE.

A PENSION IS A LONG-TERM INVESTMENT NOT NORMALLY ACCESSIBLE UNTIL AGE 55 (57 FROM APRIL 2028 UNLESS THE PLAN HAS A PROTECTED PENSION AGE).

THE VALUE OF YOUR INVESTMENTS (AND ANY INCOME FROM THEM) CAN GO DOWN AS WELL AS UP, WHICH WOULD HAVE AN IMPACT ON THE LEVEL OF PENSION BENEFITS AVAILABLE.

YOUR PENSION INCOME COULD ALSO BE AFFECTED BY THE INTEREST RATES AT THE TIME YOU TAKE YOUR BENEFITS.

# READY TO SECURE YOUR FUTURE WITH EXPERT FINANCIAL GUIDANCE FOR NAVIGATING DIVORCE?

Divorce can be challenging, but making informed financial decisions now can help secure your future peace of mind.

**Contact us today to explore your options and ensure financial security during this transition. We're here to support you every step of the way.**

This guide is for your general information and use only and is not intended to address your particular requirements. The content should not be relied upon in its entirety and shall not be deemed to be or constitute advice. Although endeavours have been made to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No individual or company should act upon such information without receiving appropriate professional advice after a thorough examination of their particular situation. We cannot accept responsibility for any loss as a result of acts or omissions taken in respect of the content. Thresholds, percentage rates and tax legislation may change in subsequent Finance Acts. Levels and bases of, and reliefs from, taxation are subject to change, and their value depends on the individual circumstances of the investor. The value of your investments can go down as well as up and you may get back less than you invested. Unless otherwise stated, all figures relate to the 2024/25 tax year.

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