Divorce and separation: understanding the tax implications

Life changing events, whether expected or unforeseen, can reshape the tax structure of a family's wealth and leave lasting implications. When it comes to navigating one of life's most difficult transitions - a marriage or relationship breakdown – unexpected tax consequences and financial uncertainty can amplify stress at an incredibly challenging time.

Proactive planning provides clarity and confidence. By preparing early, families are best placed to act in a tax-effective manner when difficult times arise. This helps protect wealth today while positioning future generations to thrive – an essential principle of the modern Family Office approach, explored further in our publication Why the Modern Family Office Matters.

Uncovering the hidden tax costs of separation

Families often invest significant time and effort in structuring their affairs for asset protection and succession planning. Yet, when life takes an unexpected turn and those structures need to be unwound, the tax implications can be complex and costly – often less visible until it's too late.

Tax law provides only limited relief for asset transfers during separation, even when arrangements comply with family law court orders. For families with significant wealth, intricate ownership structures and complex loan accounts can add further layers of uncertainty.

> "An asset that's worth $100 isn't necessarily worth $100 to the person that's going to receive it…because when you move assets around in a divorce, there's generally an inherent tax cost…People tend to forget about the tax on the unrealised gains and the consequences of that in the future for whoever gets that asset."
>
> **Kerri Reynolds**
> Partner, Family Office
> Mutual Trust
>
> Purpose of Wealth Podcast, Episode 10

The value of a Binding Financial Agreement (BFA)

> "When a couple plan to marry or settle down together, it often makes sense to put a BFA in place. This isn't just about protecting one spouse - it's about protecting both spouses and safeguarding their family and future inheritors."
>
> **Leslie-Anne Enano**
> Senior Tax Manager
> Mutual Trust

A BFA (the legal term for a 'pre-nup' or 'post-nup' in Australia) can provide both spouses with confidence and protection, helping to reduce stress and safeguard both parties should separation occur in the future.

Proactively planning in this way can also give families a more tax-effective outcome. This not only helps to protect wealth today but also positions future generations to thrive.

A safe pair of hands – bespoke support when it matters most

Tax and family law often intersect in ways that impact immediate settlements *and* long-term financial outcomes. When a separation does occur, careful planning and expert guidance can help minimise stress by avoiding inadvertent tax outcomes from asset transfers and managing complex arrangements – ensuring that what matters most is protected during such a challenging time.

At Mutual Trust, our tax specialists believe it's essential to understand the families we help and the important events and decisions that impact their lives. This is an integral part of tax planning and the reason why we start with gaining an understanding of what matters most to a family and the purpose of their wealth.

> "The types of conversations we have [at Mutual Trust] are about planning for the worst, but of course hoping for the best.
>
> It's about setting arrangements in place to guide the division of assets and avoid the destruction of capital, both financial and emotional.
>
> In this way, we help families minimise the legal costs and emotional pain of a separation, while leaving room for other important conversations, such as the care of children."
>
> **Eliza Newson**
> Partner, Family Succession & Trustee Services
> Mutual Trust

We then help families implement strategies that provide confidence and peace of mind - knowing they are prepared for whatever the future may hold.

If you'd like to explore how to protect and grow your family's wealth—today and for generations to come—we are here to help. Please reach out to your Relationship Manager for a confidential discussion.

George Psarrakos
Partner and Head of Tax Advisory

To learn more, listen to our Purpose of Wealth podcast

The secret to growing and protecting intergenerational wealth.

Hosted by Narelle Hooper, the podcast leverages findings from *Why the Modern Family Office Matters* to drive important conversations on growing and protecting intergenerational wealth.

Throughout the series, Narelle is joined by Mutual Trust experts, along with special international guests and renowned experts in their fields of family wealth.

For further insights on managing tax through life's evolving events, we recommend:

- Episode 5: Waiting for the D bus
- Episode 10: Don't let the tax tail wag the dog

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