Client Guide

When a Divorce Settlement Needs Specialist Tax Advice

Using a Financial Remedy Tax Report or focused SDLT, LTT or LBTT Advice Note to understand the after-tax value of your options and complete with confidence.

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Why should you read this guide?

Every financial settlement eventually comes down to one practical question:

"What will I actually receive after tax?"

Headline figures do not always answer that question. A family home, an investment portfolio and shares in a company may have the same stated value but very different tax costs, cash flow and future liabilities.

The challenge is not to become a tax expert. It is to obtain a reasoned answer while there is still time for it to influence the settlement, documentation and implementation.

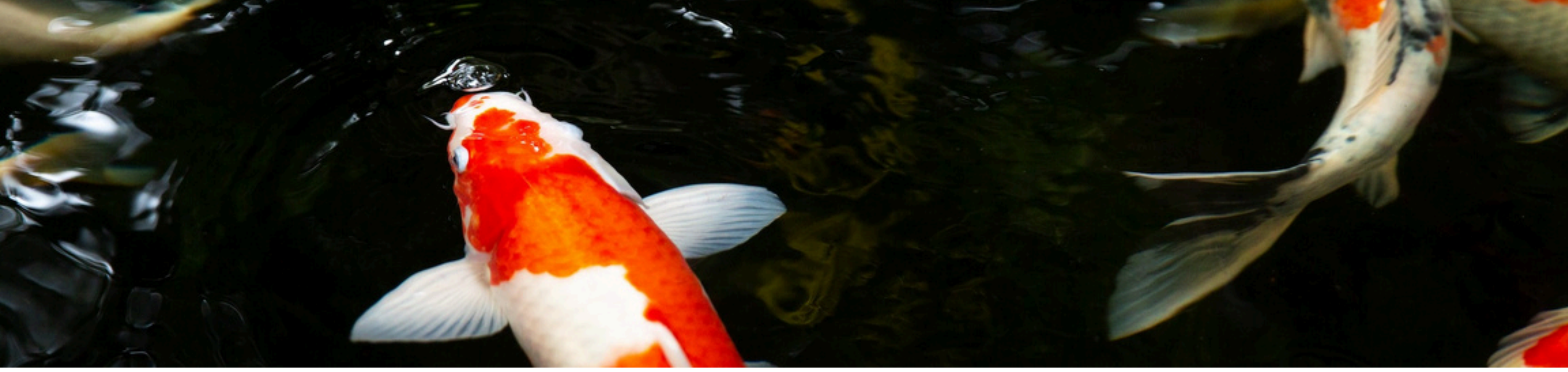
Early specialist input helps you

- Compare proposed settlement options using net rather than headline values.
- Understand which tax liabilities may arise now and which may remain with an asset.
- Test the SDLT, LTT or LBTT position on a proposed property transfer before relying on an exemption.
- Identify the documents, valuations and assumptions needed for a reliable conclusion.
- Give your family solicitor written figures and practical points they can use.
- Make informed decisions before an agreement or order limits the available options.

PURPOSE OF THIS GUIDE

This guide does not suggest that every settlement needs separate tax advice. It shows the facts that should prompt a focused review and the written answer you can expect.

Your family solicitor continues to lead the legal strategy. Bell Howley Perrotton provides the defined specialist tax input where it is needed.



Your settlement depends on more than headline values

A settlement divides legal rights and assets, but its economic effect depends on tax, debt, ownership, liquidity and the steps required to implement it. A valuation shows what an asset is worth; it may not show what you can actually use or receive.

Three practical points

- Equal gross values can produce unequal outcomes. A home, investment asset and company shareholding may carry different latent liabilities and costs of access.
- The route matters. A sale, transfer, company distribution or reorganisation can produce a different result even where the commercial objective appears the same.
- Timing and evidence matter. The date of separation, formal agreement, order, transfer or disposal - and the records supporting each step - can affect the analysis.

WHAT WE MAY NEED FROM YOU

- The proposed settlement, asset schedule, offers, heads of terms or draft order.
- Current valuations and details of who legally and beneficially owns each asset.
- Acquisition dates, original costs, improvement expenditure and earlier transfers.
- Property titles, mortgage balances, refinancing plans and intended transfer documents.
- Company accounts, share information, trust documents and relevant tax computations.
- Residence history, overseas assets and any planned sale, extraction or reorganisation.

A CLEAR DIVISON OF WORK

Your family solicitor leads the legal strategy, negotiations and drafting. A specialist tax adviser answers the defined tax questions. The two roles should work together.

The conversations that should make you pause

“The two settlement options are worth the same.”	That may be true on headline figures. Latent gains, company tax, extraction costs, transaction costs, timing and liquidity can produce different net outcomes.
“The family home is tax-free.”	The tax position depends on ownership, occupation, timing, any retained interest and what happens to the property. The label ‘family home’ is not the whole analysis.
“The property transfer will be exempt from SDLT, LTT or LBTT.”	A qualifying transfer connected with divorce, dissolution or legal separation may be exempt, but the parties, documents and route still need to meet the conditions. A company, trust or third-party transfer may fall outside of them.
“We can calculate the tax after we agree.”	A later calculation may quantify a problem after the options that could have addressed it have narrowed. Tax is most useful before terms are fixed.
“I will keep the company because it owns the properties.”	The company’s asset value is not automatically the value available to a shareholder. Company-level tax, share value and extraction costs may all be relevant.
“One person will take over the mortgage.”	Debt affects affordability and may affect the transaction-tax analysis. The answer depends on what is transferred, the liability assumed and the legal route.
“My accountant can give us a quick tax figure.”	A useful figure needs a defined scenario, current valuations, ownership and cost history, timing, implementation steps and clearly recorded assumptions.

REFERRAL TRIGGER

If the tax answer could change the attractiveness, fairness, affordability, timing or drafting of a proposed settlement, obtain specialist input before committing to the route.

When specialist tax advice adds value

Not every settlement needs a full report. The following features are strong indicators that a short scoping conversation would be worthwhile:

Area	Examples that should trigger a pause
Assets and ownership	Multiple properties; investments; trusts; overseas assets; non-UK parties; historic changes in ownership or residence.
Companies and businesses	A property company, trading company, Family Investment Company, partnership, complex shareholding or value that must be extracted.
Property transfers	One person retains the home; mortgage debt is assumed; refinancing is required; a third party or company is involved; an SDLT, LTT or LBTT exemption is expected.
Settlement options	Competing packages with similar gross values but different timing, liquidity, latent tax or implementation costs.
Timing and evidence	A sale, transfer, extraction or reorganisation; an anticipated disposal; missing base-cost records; uncertain valuations; draft terms close to agreement.

Three current points in practice

Capital Gains Tax: Transfers between separated spouses or civil partners have special rules. The result can depend on timing and whether the transfer is made under a formal agreement or court order.

Property transfers and SDLT, LTT or LBTT: Certain transactions between spouses or civil partners in connection with the ending of the relationship are exempt. The parties, documents and implementation route still need to meet the conditions.

Company-owned assets: The company owns its property and cash; the individual owns shares. Tax within the company and the cost of extracting value may be relevant when comparing a shareholding with assets held personally.

THE PRACTICAL QUESTION

Which option leaves you with what value, at what time, in what form and with what future tax exposure? A report makes the assumptions behind that comparison visible.

The advice you can use before agreement

The right output depends on the question. We agree the scope at the outset so you pay for the analysis the settlement actually needs.

Pre-implementation scoping

An initial review can identify the issues, documents and settlement options to be tested, and whether a full report or a focused SDLT, LTT or LBTT Advice Note is proportionate.

Financial Remedy Tax Report

For competing options or a settlement in which tax materially affects value, our report may include:

- An executive summary written for you and your family solicitor.
- A comparison of the proposed options using clearly stated assumptions.
- Estimated tax liabilities and an explanation of what drives the figures.
- Capital Gains Tax, corporation tax, trust, company, inheritance and transaction-tax analysis within scope.
- The effect of latent liabilities, timing, liquidity and the intended implementation route.
- Missing information, valuation requirements and evidence needed before reliance.
- Practical claims, elections, deadlines and points relevant to drafting or sequencing.
- A conference to explain the conclusions and answer questions where required.

THE OUTCOME

You receive a reasoned written conclusion that can inform your decision and be used by your family solicitor in negotiations, drafting and implementation.

FOCUSED LAND TRANSACTION ADVICE NOTE

Where the question is a defined property transfer, a proportionate written note can address the relevant SDLT, LTT or LBTT exemption, mortgage debt or other consideration, third-party involvement, sequence, documentation, filing position and practical next steps.

Working with Bell Howley Perrotton

Our role is not to replace your relationship with your family solicitor. It is to support it. We work within a clearly agreed scope and share the practical conclusions needed for negotiation and implementation.

How instruction works

Step	Stage	What happens
1	Scope the question	Send us a short summary of the separation, proposed settlement, assets, options and the point to be resolved.
2	Confirm the engagement	We complete conflicts and onboarding, identify the client, agree the scope and confirm the fee and anticipated timetable.
3	Gather the evidence	We identify the ownership records, valuations, acquisition history, debt, company or trust information and draft documents required.
4	Analyse the options	We model the agreed scenarios, quantify relevant liabilities and state the assumptions, limitations and information gaps.
5	Report and coordinate	You receive the written conclusion and practical next steps, which can be shared and discussed with your family solicitor.

Why clients involve us

- You receive a written tax conclusion rather than an unexplained estimate.
- Settlement options can be compared on a consistent, after-tax basis.
- Tax issues are considered before they become drafting or implementation problems.
- Your family solicitor receives practical information for negotiations and the order.
- The facts, assumptions, evidence gaps and limitations behind the answer are recorded.
- The scope, fee and anticipated timetable are confirmed before substantive work begins.

START BEFORE TERMS ARE FIXED

Send us a short outline of the assets, proposed terms and questions to be answered. We will confirm whether a Financial Remedy Tax Report, a focused SDLT, LTT or LBTT Advice Note or a narrower review is appropriate, together with the fee and timetable.

Who we are

Amanda Perrotton - Partner

Amanda is a solicitor with almost 30 years' experience, a full member of STEP (TEP) and a member of the Stamp Taxes Practitioners Group. She regularly advises clients and professional advisers where tax, property, trusts, family wealth and professional risk intersect, and is known for making difficult technical issues practical and understandable.

Simon Howley - Managing Partner and Chartered Tax Adviser

Simon is a Chartered Tax Adviser specialising in property and private-client tax matters. His work includes SDLT, LTT and LBTT, company and partnership structures, incorporations, reliefs, exemptions and HMRC enquiries. His approach is direct, forensic and focused on giving clients and professional advisers a route they can use.

OUR APPROACH

We define the question, test the facts and evidence, explain the conclusion in plain English and work alongside your family solicitor so that the advice can be used.

Speak to us about a settlement

Amanda Perrotton

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Property tax in England, Wales and Scotland

SDLT applies in England and Northern Ireland, LTT in Wales and LBTT in Scotland. They are separate taxes. A settlement containing property in more than one territory may need more than one tax analysis and return.

Transfers between the parties

Each regime can exempt a qualifying property transfer between spouses or civil partners under an appropriate court order or agreement connected with divorce, dissolution or legal separation. Mortgage debt does not itself defeat the exemption where all conditions are met. A transfer involving a company, trustee, child or other third party may fall outside it.

- SDLT: Finance Act 2003, Schedule 3 paragraphs 3 and 3A; HMRC SDLTM00550.
- LTT: Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017, Schedule 3 paragraphs 3 and 4.
- LBTT: Land and Buildings Transaction Tax (Scotland) Act 2013, Schedule 1 paragraphs 4 and 5; Revenue Scotland LBTT3006 and LBTT3007.

Buying another home while retaining an interest

A later purchase has its own higher-rate test. SDLT, LTT and LBTT each contain a rule that may disregard a retained interest in the former home following defined divorce or separation arrangements, but their required orders, agreements and occupation conditions differ. The relevant provisions are Finance Act 2003, Schedule 4ZA paragraph 9B; the 2017 Welsh Act, Schedule 5 paragraph 26; and the 2013 Scottish Act, Schedule 2A.

Capital Gains Tax timing

For transfers on or after 6 April 2023, the no-gain/no-loss period generally runs until the earlier of the end of the third tax year after the tax year of permanent separation and the final divorce or dissolution. A transfer under a formal divorce or separation agreement or court order can qualify without that time limit. Private Residence Relief may also be available where one party leaves the home or retains a right to sale proceeds, but an election or claim and careful comparison with relief on another home may be needed.
The main provisions are Taxation of Chargeable Gains Act 1992 section 58 and sections 225B and 225BA, with HMRC HS281 (2026), CG22200 and CG22420. Haines v Hill [2007] EWCA Civ 1284 remains relevant to the timing and market-value analysis of court-ordered transfers where no-gain/no-loss treatment is unavailable.

Other assets and legal checks

Company shares may be subject to Stamp Duty or SDRT rather than land transaction tax. Company-owned property, distributions, trusts, pensions, overseas residence and Inheritance Tax require separate analysis. The order, lender arrangements, beneficial ownership, valuations, insolvency position and implementation documents must all match the route being assessed.

Law, published guidance and reported decisions checked to 18 August 2026. SDLT cases are not automatically binding for LTT or LBTT.

Technical sources and important note

- Taxation of Chargeable Gains Act 1992 section 58 and sections 225B–225BA; HMRC HS281 (2026), CG22200, CG22420 and CG65334 onwards.
- Finance Act 2003, Schedule 3 paragraphs 3 and 3A and Schedule 4ZA paragraph 9B; HMRC SDLTM00550, SDLTM04040 and SDLTM09797.
- Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017, Schedule 3 paragraphs 3–4 and Schedule 5 paragraph 26; WRA higher-rates guidance.
- Land and Buildings Transaction Tax (Scotland) Act 2013, Schedule 1 paragraphs 4–5 and Schedule 2A; Revenue Scotland LBTT3006, LBTT3007 and ADS guidance.
- de Lasala v de Lasala [1980] AC 546; Aspden v Hildesley [1982] STC 206; Harvey v Sivyer [1985] BTC 410; Haines v Hill [2007] EWCA Civ 1284.
- SRA Code of Conduct and SRA guidance for tax advisers in scope of the money-laundering regulations.

This guide provides general information only and is not legal or tax advice. It reflects law, published guidance and reported decisions checked on 18 August 2026. Every settlement depends on its facts, documents, territory and implementation; SDLT authorities do not automatically determine LTT or LBTT.