Solicitor Guide

When Financial Remedy Work Becomes Tax Advice

Using tax reports and specialist SDLT, LTT or LBTT advice to negotiate with confidence and implement the intended settlement

020 7129 1432

www.bhptax.law

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Why should you read this guide?

Every family solicitor eventually faces the same question:

“What will I actually receive after tax?”

Headline asset values rarely answer that question. Ownership, debt, timing, company or trust structures and the way a settlement is implemented can all change the real economic outcome.

The challenge is not that family lawyers should become tax specialists. It is recognising when a settlement has moved beyond legal strategy and valuation into specialist tax analysis — while there is still time for that analysis to influence the terms.

Early specialist input helps you:

- Compare settlement options using reliable net rather than merely headline values.
- Identify tax and SDLT, LTT or LBTT issues before positions become entrenched or an order is sealed.
- Keep the legal strategy and specialist tax analysis clearly scoped.
- Reduce fee-earner time spent researching unfamiliar tax provisions.
- Give the client a joined-up service while retaining control of the matter.
- Support the assumptions used in offers, schedules and drafting.

PURPOSE OF THIS GUIDE

This guide is not intended to teach tax. It is designed to help family teams recognise when a Financial Remedy Tax Report or a focused SDLT, LTT or LBTT Advice Note would give the legal team and client better information for negotiation and implementation.

You remain the trusted adviser and continue to lead the legal strategy. Bell Howley Perrotton provides the defined specialist tax input.

Financial remedy work and tax – why the overlap matters

Modern financial remedy work increasingly involves assets whose gross value does not reveal what either party will actually receive. Property portfolios, investment assets, family companies, trusts, debt and overseas interests can each carry different tax exposures and implementation costs.

The risk is not confined to a calculation being wrong. A settlement can be negotiated on an assumption that is never tested: that two assets are economically interchangeable, that a property transfer is automatically exempt from SDLT, LTT or LBTT or that tax can be considered after terms are agreed.

Why equal on paper may not mean equal in practice

- A family home, an investment property and shares in a property company can carry very different latent liabilities.
- The legal owner shown on a title or share register may not tell the whole story where trusts, partnerships or beneficial interests are involved.
- Mortgage debt or other consideration may affect both the net value received and the SDLT, LTT or LBTT analysis of a transfer.
- Selling an asset, transferring it between spouses and transferring company shares can produce fundamentally different outcomes.
- The date, sequence and legal route used to implement the settlement may determine whether a relief or exemption is available.

The commercial advantage

Tax advice is most valuable when it changes the information available to the negotiators. Early analysis allows the legal team to compare alternatives, explain the real economic position to the client and draft around the intended route. Advice obtained after agreement may identify the problem, but there may then be less freedom to solve it.

A CLEAR DIVISION OF WORK

Family law and tax are separate specialist disciplines. Bringing us into the matter gives the client a written tax conclusion while allowing your team to remain focused on the financial remedy strategy and the client relationship.

The conversations that should make you pause

"The two packages are worth the same."	That may be true on headline figures. It may not be true after latent gains, company-level tax, extraction costs, transaction costs, timing and liquidity are considered.
"The property transfer will be exempt from SDLT, LTT or LBTT, won't it?"	Each regime can exempt a qualifying transaction between spouses or civil partners connected with the ending of their relationship. Debt does not itself defeat the exemption where it applies, but the parties, order or agreement and implemented route must meet the territory's conditions; company, trust or third-party transfers may not.
"One spouse will keep the company because it owns the properties."	The value of the shares, the tax within the company and the consequences of extracting or disposing of the underlying assets may all be relevant to the net position.
"They will refinance and one spouse will take over the mortgage."	Debt can affect both affordability and SDLT, LTT or LBTT where the relationship ending exemption does not apply. The analysis depends upon who is transferring what, the liability being assumed and the legal route used.
"We can work out the tax after the order has been agreed."	A later calculation may quantify the problem without preserving the options that could have addressed it. Timing should be considered before heads of terms, an open offer or a consent order is finalised.

REFERRAL TRIGGER

If the tax answer could change the attractiveness, fairness, affordability or drafting of a proposed settlement, seek specialist input before the parties commit to the route.

When specialist tax advice adds value

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

Ownership and structure

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- Multiple properties or an investment portfolio.
- Property or other assets held through a company, partnership or trust.
- A Family Investment Company, trading company or complex shareholding structure.
- Non-UK parties, overseas assets or historic changes in residence.

Settlement mechanics

- A sale, transfer, extraction or reorganisation is required to implement the settlement.
- One party will assume mortgage debt or provide other consideration as part of a property transfer.
- The parties are comparing routes that are similar in headline value but different in timing, liquidity or tax exposure.

Value and fairness

- One spouse will retain an asset with a material latent gain or embedded company tax exposure.
- A disposal is anticipated soon after the settlement.
- Tax could materially affect the fairness of the proposed division or the client’s ability to implement it.

Three examples of value in practice

Anonymised matter: A 31-property London portfolio with mixed ownership

The matter: The portfolio included properties held by a company and others held personally or jointly.

Our role: We modelled the identified disposal and transfer scenarios and set out the relevant tax consequences.

Value to the legal team: The legal teams could compare settlement routes using a consistent set of assumptions and negotiate using net figures.

Simplified illustration: Equal on paper, unequal after tax

The matter: Two proposed allocations were each worth £1.5 million on headline figures. One included assets expected to produce an estimated £220,000 tax liability on disposal.

Our role: The report displayed the £1.5 million versus £1.28 million comparison, together with the assumptions and timing behind it.

Value to the legal team: The family lawyers could address the economic imbalance before the terms were fixed.

Simplified illustration: Company shares or the underlying property?

The matter: A family company owned investment property that one party was expected to retain.

Our role: We compared the identified routes and highlighted the company, shareholder, valuation and implementation issues.

Value to the legal team: The legal team could negotiate and draft on the basis of the route actually intended.

The advice your legal team can use

The right output depends upon the question. We agree the scope at the outset so the client pays for the analysis the matter actually needs.

Financial Remedy Tax Report

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

- An executive summary written for the legal team and client.
- A comparison of the proposed settlement options using clearly stated assumptions.
- Estimated liabilities and an explanation of what drives the figures.
- Capital Gains Tax, corporation tax, trust, company, inheritance tax and transaction-tax analysis within the agreed scope.
- Identification of missing information, valuation requirements and areas requiring further evidence.
- Practical implementation points, relevant claims, elections and deadlines.
- Questions that may affect the drafting or sequencing of the order.
- A follow-up conference to explain the conclusions and answer questions.

Specialist SDLT, LTT or LBTT Advice Note

Where the issue is a defined property transfer, a focused written SDLT, LTT or LBTT Advice Note may be the more proportionate service. It can address:

- Whether the proposed transaction falls within a specific exemption.
- The effect of mortgage debt, other consideration or third-party involvement.
- The SDLT, LTT or LBTT consequences of the proposed sequence and documentation.
- Relevant assumptions, information gaps, filing requirements and practical next steps.

THE OUTCOME

The legal team receives a reasoned written conclusion that can inform negotiations, drafting and implementation. The report or Advice Note records the facts, assumptions and limitations behind the position taken.

Working with Bell Howley Perrotton

Our role is not to replace your relationship with the client. It is to support it. We work alongside family solicitors within a clearly agreed scope and keep the legal team informed throughout.

How instruction works

Step	Stage	What happens
1	Scope the questions	Send us the proposed settlement, the assets involved and the questions the legal team needs answered. A short outline is enough for an initial discussion.
2	Confirm the engagement	We complete conflicts and onboarding, identify the client, agree the scope and confirm the fixed fee and anticipated timetable before work begins.
3	Gather the evidence	We identify the ownership records, valuations, acquisition history, debt, company information and draft documents required for the agreed analysis.
4	Analyse the options	We model the agreed scenarios, quantify the relevant liabilities and state the assumptions, limitations and information gaps.
5	Report and explain	You receive the written conclusions and practical implementation points, followed by a conference where required.

Why family departments involve us

- You continue to lead the client relationship and legal strategy.
- Negotiations proceed using evidence-based net values.
- The scope of the legal and tax work is clearly defined.
- Your team spends more time on family law and less time researching tax legislation.
- The client receives specialist input as part of one joined-up service.
- The firm has a consistent escalation route for complex matters and junior fee earners.

START WITH ONE MATTER

Before the next complex settlement is agreed, send us a short outline of the assets, the proposed terms and the questions you need answered. We will confirm the appropriate scope, fixed fee and timetable before any work begins.

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.

Speak to us about a matter

Amanda Perrotton

amanda@bhptax.law

07795 930 659

www.bhptax.law

OUR APPROACH

You remain the trusted adviser. We provide the specialist analysis that helps you explain the real economic position, negotiate with confidence and implement the intended settlement.

UK land transaction tax check

SDLT applies to land in England and Northern Ireland, LTT to land in Wales and LBTT to land in Scotland. The settlement exemption, any later higher-rate purchase and every filing obligation must be tested under the legislation for the territory in which the land is situated.

Transfers connected with divorce, dissolution or separation

• SDLT: Finance Act 2003, Schedule 3 paragraphs 3 and 3A exempts specified transactions between the spouses or civil partners under qualifying court orders or agreements connected with the ending of the relationship. HMRC SDLTM00550 confirms that the exemption is unavailable where the transaction involves someone other than the parties.

• LTT: the equivalent Welsh exemptions are in the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017, Schedule 3 paragraphs 3 and 4.

• LBTT: the equivalent Scottish exemptions are in the Land and Buildings Transaction Tax (Scotland) Act 2013, Schedule 1 paragraphs 4 and 5; see Revenue Scotland LBTT3006 and LBTT3007.

Where a qualifying exemption applies, mortgage debt or other consideration does not by itself create a charge. The critical questions are whether the transfer is between the parties, whether the order or agreement and relationship-ending conditions are met, and whether the implemented transaction matches them. Transfers by or to a company, trustees, children or other third parties can fall outside the exemption.

A later purchase and a retained former home

An exempt settlement transfer does not answer the higher-rates question on a later home purchase. SDLT has a disregard for specified property adjustment orders in Finance Act 2003, Schedule 4ZA paragraph 9B (HMRC SDLTM09797). LTT has a corresponding but separately drafted rule in the 2017 Welsh Act, Schedule 5 paragraph 26. Scotland amended its ADS rules from 1 April 2024 to include a defined divorce or separation exception under Schedule 2A. The order, agreement, occupation, ownership and timing conditions are not identical.

Capital Gains Tax and related taxes

• Under Taxation of Chargeable Gains Act 1992 section 58, transfers on or after 6 April 2023 can be made on a no-gain/no-loss basis until the earlier of the end of the third tax year after the tax year of permanent separation and final divorce or dissolution. A transfer under a formal divorce or separation agreement or court order can qualify without that time limit.

• The date on which an order or agreement is made, takes effect and is implemented can alter the disposal date and valuation analysis. HMRC CG22420 should be read with CG22200 and the full order; Haines v Hill [2007] EWCA Civ 1284 remains relevant to the court-order and market-value analysis where no-gain/no-loss treatment is unavailable.

• Private Residence Relief may require an election or claim where one party leaves the former matrimonial home, retains an interest, or receives deferred sale proceeds. The current provisions include TCGA 1992 sections 225B and 225BA; compare HMRC HS281 (2026) and CG65334 onwards.

• A transfer of company shares may engage Stamp Duty or SDRT rather than SDLT, LTT or LBTT. Company asset transfers, distributions, buy-backs, reorganisations, trusts, pensions, non-UK residence and Inheritance Tax require separate analysis. Legal title, beneficial ownership, lender consent, insolvency exposure and enforceability must also be coordinated with the tax route.

Case-law status

The case-law review included de Lasala v de Lasala [1980] AC 546, Aspden v Hildesley [1982] STC 206, Harvey v Sivyer [1985] BTC 410 and Haines v Hill [2007] EWCA Civ 1284, together with HMRC's Capital Gains Manual updated 17 August 2026. No reported decision located by the review displaces the current statutory post-6 April 2023 rules. SDLT authorities do not automatically determine 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 matter depends on its facts, documents, territory and implementation; SDLT authorities do not automatically determine LTT or LBTT.