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Property transfers between spouses or civil partners

When transferring property, the first tax that springs to mind is capital gains tax (CGT), but stamp duty land tax (SDLT) is another important consideration. This factsheet looks at the implications for both taxes when transferring property between spouses or civil partners.

The income tax implications of jointly-held property are covered in a separate factsheet.

Capital gains tax

You do not pay Capital Gains Tax on assets you give or sell to your husband, wife or civil partner, unless:

- you separated and did not live together at all in that tax year; or
- you gave them goods for their business to sell on.

The tax year is from 6 April to 5 April the following year.

If they later dispose of the asset, your spouse or civil partner may have to pay CGT on any gain they make.

Their gain will be calculated on the difference in value between when you first owned the asset and when they disposed of it.

Stamp duty land tax

Stamp duty land tax (SDLT) applies in England and Northern Ireland; Land Transaction Tax applies in Wales and Land and Buildings Transaction Tax applies in Scotland. This factsheet focuses on SDLT.

You may need to pay SDLT when all or part of an interest in land or property is transferred to you and you give anything of monetary value (consideration) in exchange. If the transfer is a gift, there's no consideration and SDLT doesn't normally apply.

You might pay SDLT when you transfer a share in a property to a spouse or partner when you do one of the following:

- marry;
- enter into a civil partnership; or
- move in together.

You pay SDLT if the chargeable consideration given in exchange for the share transfer is more than the current SDLT threshold for the property type. The rates and thresholds can be viewed here; note that rates for additional properties are 3% higher.

Example 1: no SDLT

A house has a value of £180,000. The owner of the property has equity of £90,000 and an outstanding mortgage of £90,000. The owner transfers a half share of the property to their partner, who pays cash for half (£45,000) of the equity and takes on half of the outstanding mortgage (£45,000). In this case, the consideration for SDLT is £90,000. This is below the current SDLT threshold so there's no tax to pay. The transaction must still be reported to HM Revenue and Customs (HMRC) on an SDLT return.

Example 2: you pay SDLT even though no money changes hands

The owner of a property valued at £500,000 with an outstanding mortgage of £400,000 transfers half the property to their partner when they marry. Their partner takes on 50% of the mortgage (£200,000).

By taking liability for the mortgage, the owner's partner has given 'consideration' of £200,000 for their share of the property, which is subject to SDLT as it is above the current threshold.

They must pay the SDLT due and tell HMRC about the transfer by filling in an SDLT return.