

Dental divorce

Geoff Long considers ways of keeping the taxman at bay during a divorce.

Back in the 1960s dental divorce was a rarity. A divorce was difficult to get, and settlements were mean. Indeed there was a time when the only way to obtain a divorce was to provide actual proof of adultery (a very difficult task). Then the law was relaxed and spouses just had to provide the infamous 'receipt for a Brighton guesthouse' as grounds for divorce (this was often given as a Christmas present from one party to the other). During this period many dentists were party to hideous marriages.

Then came the Matrimonial Claims

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Act 1973 and with the new openness, freedom and it has to be said, intolerance amongst married couples.

Spiralling property prices in the UK have contributed, in part, to the flood of very well timed dental divorce petitions I have witnessed in the past two years. We have seen some asset splits of 80:20 going against some dentists, and others losing £1m matrimonial homes. Dentists have been seen spiralling back to the bottom of the housing ladder, like an horrendously expensive game of snakes and ladders.

Then there are maintenance payments. We had a recent case

where a dentist working part time earning £19K a year as an associate was ordered to pay £3K a month maintenance. When he protested against the unfairness of the order, the district judge said he had earned £120K a year previously as a principal, and if he didn't make the payment Wormwood Scrubs was very comfortable at Christmas!

He had to move back in with his ageing parents to satisfy the maintenance order.

Obligations on divorce

Remember, as a dentist, your spouse will have the following rights if you divorce:

- the right to a car;
- a house in which to live;
- monthly maintenance (until the children finish university or medical school);
- a share in your wealth;
- a share in your National Health Service pension.

To rub salt in the wounds if the matrimonial home is sold following separation or divorce, some of the profit can be liable to capital gains tax. This is a most unwelcome bill as often two houses have to be found out of one. So giving a large slice of equity to the Inland Revenue is the last thing we want to do.

If you are transferring your share in your home and have not acquired a new house, claim Inland Revenue statutory conversion D6 and there will be no tax to pay.

If you transfer your share in the house to your wife and you already have a new home, make sure you transfer within three years of separation. Failing that you will need to draw up a trust deed to protect your capital gains tax position with the Revenue.



● You might lose the keys to the matrimonial home but you should be able to keep your practice.

Will you lose your dental practice? The simple answer to this is no, and for a variety of reasons:

- your spouse cannot run a dental practice if they are not a dentist;
- you will need the dental practice to pay the monthly maintenance payments.

However, there are circumstances where the family Court might make an award which would force you to sell your practice.

Civil Partnerships Act 2004

Since December 2005 gay and lesbian dentists co-habiting have been granted similar rights to married couples. Tax considerations include:

- inheritance tax planning to ensure you do not get landed with a large inheritance tax bill when your partner dies;
- capital gains tax opportunities with buy to lets and dental incorporation;
- nasty pitfalls with family tax credits if there are children from previous relationships. ■



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