

Tax consequences for homeowners in the event of divorce or separation

Divorces and separations present homeowners with considerable tax challenges. In addition to the division of the property, it is particularly important who can claim the property costs for tax purposes and how renovation costs are taken into account. Below you will find an overview of the main tax aspects of property division.

Tax situation during the marriage

During the marriage, both spouses pay tax on the proportionate imputed rental value of their property according to the ownership share entered in the land register. Maintenance, operating and administration costs can also be deducted on a pro rata basis - regardless of who makes the payments. For renovation costs, the distinction between value-enhancing and value-preserving expenses is decisive:

- Value-enhancing costs increase the value of the property, for example through modernisation or structural extensions. These costs are not immediately deductible, but reduce the taxable capital gain on the subsequent sale. Receipts for these investments should therefore be kept in a safe place.
- Value-preserving costs serve to maintain the existing value of the property and are generally immediately deductible, for example for repairs or the replacement of obsolete fixtures and fittings. As the cantonal regulations on this vary, the information sheets of the respective canton should always be observed.

Tax situation in the event of separation or divorce

The tax implications following a separation or divorce depend on whether the property is co-owned, solely owned or jointly owned by one partner. Although joint ownership is mentioned, it is not discussed further here. A distinction must also be made between married and unmarried couples, as this has different tax consequences:

- **Co-ownership:** In the case of a jointly owned property, the tax liability remains proportionate. The remaining partner pays tax on the entire imputed rental value but, in the case of a marriage, can deduct the share of the partner who has moved out as alimony for tax purposes. In the case of unmarried couples (cohabiting), the deduction is made as a support payment. In both cases, the partner who has moved out must pay tax on their share of the imputed rental value as income, which increases the taxable income. Value-preserving costs can still be claimed on a pro rata basis, while value-enhancing costs only become tax-relevant when the property is later sold.
- **Sole ownership:** If the property is solely owned by one partner and is given to the other partner for use, there are two scenarios:
 - **Right of use free of charge:** The remaining partner uses the property for no consideration. In this case, the owner does not pay tax on the imputed rental value, while the remaining partner - whether married or not - must pay tax on the imputed rental value as income.
 - **Offsetting against alimony or support payments:** If the right of use is made as part of alimony or support payments, the owner moving out must pay tax on the imputed rental value. However, this amount can be deducted for tax purposes as alimony or support payments. The remaining partner must pay tax on the imputed rental value as income. Only the owner can claim value-preserving renovation costs for tax purposes, while value-enhancing expenses only become relevant when the property is sold at a later date.

Important information on renovation costs

Value-enhancing investments are tax-relevant in the event of a subsequent sale. It is therefore essential to keep the receipts for such expenses in order to reduce the capital gain. Value-preserving costs can generally be immediately deducted for tax purposes, although the cantonal regulations should be observed as they vary from canton to canton.

Conclusion

The tax consequences of a divorce or separation are of considerable importance and should not be underestimated. In particular, the handling of imputed rental value and renovation costs - whether value-enhancing or value-preserving - is crucial in order to avoid unnecessary tax burdens. The cantonal differences in value-preserving costs require a close examination of the respective information sheets. In addition, receipts for value-enhancing expenses should be kept carefully, as these can significantly reduce the tax burden on subsequent sale. It is advisable not only to consult a divorce lawyer, but also a tax expert who can explain the tax consequences in detail and point out optimisation options. Timely and sound advice helps to avoid fiscal surprises and to optimise the tax implications.

Our expertise

Take advantage of our extensive experience in the field of taxation. Thomas Wenk and his team are at your side with customised consulting solutions. Contact us for detailed information and professional support.