

TRANSFER PROPERTY IN A MARRIAGE SEPARATION

A lot of people are misunderstanding that in a marriage separation situation, that they agree to the split of assets, and that one party takes on the home loan and then transfers the property to the other.

The issue with this process is that:

- People don't realise that banks treat a home loan that is in joint names as one entity;
- When one party takes over the home loan, the banks treat this as a new home loan. So, you have to go through the finance process again; and
- If you don't have a court order, then you pay stamp duty on the half share that you are taking over – even though no real money changes hands. In some cases, the stamp duty could be over \$20,000 (for example if you transfer 50% of a \$1m property).

If done correctly, and there is a Family Court order in place, the stamp duty can be done for what is called nominal stamp duty (depending on the state in Australia, it can range from \$20 to \$100). So, the process is different.

The Family Court order does not need to be a combative approach either, as there are Consent Orders available, which is an agreement between the parties.

A refinance to a single name is also something that has to be considered, as with the change in lending rules and the way that banks assess you, you may want to take over the home loan, but the bank may not allow you to do so.

Also, the valuation of the property that a bank may give you might not be as much as you think it will sell for, which can provide people with issues.

The key is to seek advice and assistance before going through a marriage separation to see what can be done.

If you have any questions or concerns regarding this matter, please call the Client Services team on (08) 9227 6300 or email clientservices@austasiagroup.com.

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How can we help you?



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