



Shadforth Financial Group



Advice for Separating Partners

*This guide has been designed to protect and maintain your financial wellbeing before, during and after the separation process. Your Shadforth adviser can provide valuable insight into your best way forward.*

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# Coming to terms with separation

**The break-up of a marriage or de-facto relationship is one of the most difficult experiences a person can go through.**

It is a very difficult time for everyone involved and in addition to the emotional stress and trauma there are significant financial consequences that have to be addressed.

In order to ensure your financial interests are protected and maintained, obtaining sound financial advice from a qualified professional should be considered a key part of the settlement process. A professional financial adviser can take into account the financial impacts of family law arrangements and the taxation system, and how these may have a bearing on your settlement.

A range of alternative options may be available, with corresponding financial considerations and consequences for the parties concerned. The key is to engage a team of suitably qualified professionals who can work together to bring about a satisfactory outcome for both parties.

With the right advice and appropriate arrangements in place, we can help separating partners to reach an agreement that delivers a financially equitable divorce settlement.

## Why is financial advice important?

**We often find that one thing that is missing in many settlements is the advice of a qualified financial professional.**

This advice can be invaluable when it comes to arriving at the best way to divide and restructure a couple's combined assets, and how to structure their affairs after settlement. This requires a deep understanding of your goals for the future and an ability to model and forecast the long-term financial effects of the settlement, long after each party has separated.

Experience indicates that people are primarily concerned with the percentage or gross dollars each party might receive arising from a settlement but pay little attention to the structure of how they might receive the settlement.

This emphasis on the short-term cash figure is often misguided, and can come at the expense of more effective strategies that may be more financially advantageous for one or both parties over the long term. This is one area where separating partners can benefit from the assistance of a financial adviser.



# Considerations

## WHO CAN YOU TURN TO?

Your lawyer can provide you with advice, support and direction you need to navigate the settlement process, however you will also need financial advice to ensure you receive the best possible financial outcome.

Working together with your lawyer we can provide you with this service.

## HOW DO FINANCIAL ADVISERS ADD VALUE?

A financial adviser adds value by assessing the legal and taxation structures in order to achieve the best possible outcomes from those assets into the future.

Through the use of sophisticated after tax cash-flow modelling, we can show you the best way to structure your affairs which can lead to substantial tax advantages.

# Recommendations

## CONSIDER YOUR POSITION

An imbalance often occurs in divorce cases when one spouse has more financial resources than the other. This imbalance typically occurs when one individual is the “breadwinner,” or when there is a substantial income difference between the two parties. The more financially advantaged partner may attempt to “drag out” the process, be less concerned about costs, or attempt to conceal assets until the less financially secure partner concedes. It is important to consider your position carefully in this context.

## KEEP EMOTIONAL ATTACHMENTS IN PERSPECTIVE

Separating partners often harbour a great deal of emotional attachment to certain assets.

From the family home, through to antiques and works of art, the process of separation can become emotionally charged when it comes to the division of these assets. Once again, this is where

the right advice can help. Advice and guidance from professionals who are experienced in these negotiations can help steer discussions and decision making in a sensible and level-headed manner.

## CONSIDER YOUR COST OF LIVING

Many people underestimate the cost of living associated with their lifestyle. In order to ensure your ability to service your financial outgoings is protected and maintained it will be necessary to examine your personal financial situation. This is an important part of the divorce settlement process as it may be necessary to consider temporary maintenance agreements and to ensure that the final settlement is according to your financial needs.

## REVIEW YOUR INSURANCE ARRANGEMENTS

Insurance can be viewed as a financial resource that becomes available in the event of a catastrophe. The level of

insurance required is generally a function of what needs to be covered and its cost. In the context of a divorce, separating parties may find that their obligations and expenses have changed dramatically. Therefore it is important to review insurance arrangements in light of new circumstances and requirements.

## IT HELPS TO BE CONCILIATORY

There is no denying that separation is a very difficult and emotional experience to go through. There can often be a great deal of bitterness and anger, however adopting an approach where both parties enter into discussions and negotiations calmly and fairly can often help towards the resolution of an amicable settlement quickly and efficiently.

Family lawyers and financial advisers are experienced professionals who will act with sensitivity, discretion and confidentiality to bring about the best possible outcome for clients going through this process.

# The role of financial advice

**Insufficient financial knowledge can often become apparent when separated partners are forced to make their own financial decisions.**

Trying to make such life changing decisions occurs at a sensitive time when lack of financial knowledge can be a huge disadvantage. This is where financial advice becomes imperative.

- A financial adviser will consider the less obvious financial consequences of a property settlement such as the capital gains tax and stamp duty status of various assets. Through the use of sophisticated after tax cash flow modelling, “dollars today” as part of a settlement can be viewed through the lens of “this is what it means to me in terms of my financial and lifestyle goals into the future”.
- At times, one of the two separating parties may have been less involved in the day to day running of household finances. Now, facing what can often be a steep learning curve in the world of managing investments, taxation, cash-flow and budgeting, a financial adviser can provide invaluable advice, support and direction.
- As time passes, it will be necessary to review the financial strategy that has been implemented in light of changing needs and circumstances. While this is important for all, it is even more so for an individual in the year or two after separation. This is due to the significant change that occurs to an individual’s financial position as a result of separation and the issues that tend to result as a person adjusts to their new life. A financial adviser will review the financial strategy in light of these changes and modify the financial strategy to ensure it remains relevant and appropriate.

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# The benefits of good advice

Many people embark on a life after a separation without fully comprehending that the settlement may need to support them financially for the rest of their lives.

A structured financial plan can help by providing a formal strategy that enables people to make the transition from married to single life by re-setting and prioritising financial goals and objectives and if necessary re-setting realistic expectations.

## HOW SHADFORTH CAN HELP

- We help clients to understand their financial position and future outlook by considering and modelling after tax cash-flows. This modelling is based on results that would emerge following a range of asset division options.
- We can advise on the most beneficial taxation structures associated with different settlement alternatives.
- We can help clients to understand the “real life” implications of complex financial arrangements.
- We can highlight any administrative changes that may be necessary to be agreed as part of a settlement (such as the assignment of personal insurance policies).
- We can provide specialist financial advice in a mediation or collaborative law process by objectively reviewing and analysing the financial goals and requirements of both parties through the lens of a post-separation division of assets. This extends to formulating a range of possible solutions for all parties to consider as part of the negotiation process.
- We help clients to understand the longer term financial implications and adequacy of settlement options with regards to their personal circumstances and financial requirements.

## SPECIFIC SERVICES

### ***Strategic financial planning:***

Developing and implementing strategic financial plans that are designed to realise big picture lifestyle goals and objectives. We work with key professionals from other disciplines to help make these goals a reality.

### ***Cash flow modelling:***

Cash flow modelling involves ensuring sufficient cash flow and liquidity is available during the separation and property settlement period, and after the property division is settled.

### ***Debt management:***

Debt management involves the restructuring and consolidation of debts, with consideration to taxation consequences, the security available to lenders, cash flow, and loan service ability.

### ***Estate planning:***

Understanding and identifying both estate planning issues and opportunities including the use of wills, powers of attorney, trusts property ownership and private foundations.

### ***Insurance:***

Protection against risk and loss. This involves an assessment of personal and general insurance cover.

### ***Tax Planning:***

Tax planning revolves around ensuring that the value of your wealth is optimised over time by legitimately reducing the various taxes that are applied to income and capital growth.

### ***Ongoing Service and Review:***

Aims to ensure the financial strategy remains relevant as personal needs and objectives, together with the legislative and regulatory environment, change.



# Case studies

## TAKING FINANCIAL CONTROL

**Jennifer is a 45 year old professional who has recently become divorced.**

While she is satisfied with the general direction of the settlement being negotiated, she is anxious regarding her financial future and ultimately, whether she will be in a position to retire comfortably. This anxiety is compounded by the fact that she has previously had little involvement in managing her day to day financial affairs, as this fell on her ex-partner.

She expressed these concerns to her solicitor who referred her to Daniel, a Shadforth Private Client Adviser. Prior to finalising the settlement, Daniel modelled a number of strategies for her and discussed what she could do with her settlement, how it could grow over time and what type of lifestyle she could expect to have based on the different scenarios. Jennifer still has one child, Anthony, who is at University, and so Daniel also incorporated the provision of financial assistance until Anthony had completed his education,

allowing Jennifer to truly understand the implications of the settlement agreement.

Daniel and Jennifer spent a significant amount of time ensuring the options were fully understood, together with any associated implications. As a result of the discussions, Daniel developed a financial plan which would place Jennifer in a position to meet her short, medium and long-term goals.

A key outcome for Jennifer in engaging with Shadforth is that she has now taken control of her financial position and, most importantly, she is no longer anxious about her financial future.

Jennifer said, "I am now in a position where I understand the consequences of the decisions I make and the goals I wish to achieve. Also I know that as my goals change, or something unexpected happens, Daniel will be able to show me the impact on my future financial position, enabling me to make effective decisions."

## PROVIDING THE SAME WITH LESS

**James is a recently divorced father of two young children.**

He had structured his property settlement to focus more on providing ongoing income support in exchange for retaining a larger share of the family asset pool. As part of his ongoing income obligation he committed to pay child maintenance of \$50,000 per annum. As a high income earner (he was on the top marginal tax rate) James had to earn close to \$100,000 pa before tax in order to fund the agreed \$50,000 for his children.

We explained to him that a Child Maintenance Trust (CMT), which is a trust established for the benefit of the child as a result of a family breakdown, can be a tax-effective option for individuals obligated to pay child maintenance or support. The benefit of establishing a CMT is that a child under the age of 18 is able to receive unearned income at adult tax rates. James restructured his financial affairs and transferred assets into a CMT and used this vehicle to fund his \$50,000 annual obligation.

The net result of establishing the CMT, compared to funding his obligations directly from his after-tax income, was an average tax saving in the vicinity of \$9,500 annually over the period of the \$50,000 obligation.

# Case studies

## COLLABORATIVE APPROACH IN NEGOTIATING THE FINANCIAL SETTLEMENT

### **Jim and Joan are in the process of separating.**

Their marital assets consist of the family home, which was modestly mortgaged to the bank, and a sizeable superannuation account in Jim's name.

During discussions with her Financial Planner, Phillip, Joan indicated that her key objective was to retain the family home. However, she was concerned that it may need to be sold. She also did not have capacity to take on too much debt.

Phillip referred Joan to Helen, a legal specialist in this area. In making the referral, he advised Helen of Joan's concerns.

In order to satisfy Joan's objective to retain the family home, Helen negotiated an acceptable outcome to both parties. As a result Joan was able to retain the family home, however she was required to take responsibility for the associated mortgage. As compensation, Joan received a larger share of Jim's superannuation account and increased maintenance payments to reflect the additional interest cost she would incur.

Prior to negotiating this outcome, Helen had consulted with Phillip to ensure that the financial settlement was consistent with Joan's needs, objectives and personal circumstances. The proposed terms were satisfactory in this regard. Due to the increased maintenance payments, the impact of Joan's cash flow would be reduced. In addition, the mortgage on the home could eventually be repaid with the share of the superannuation account she received.

Helen and Phillip worked collaboratively to ensure that Joan received the optimal financial settlement to not only meet her objective to retain the family home, but also to minimise the impact on her other medium to long-term financial objectives.

# About Shadforth Financial Group

## HELPING SUCCESSFUL PEOPLE MAKE SMART DECISIONS ABOUT MONEY

Shadforth is one of Australia's leading privately-owned financial advisory firms. Our aim is to help clients generate and maintain wealth over time.

We are united in our commitment to act with the highest standards of ethics and integrity for the benefit of our clients, providing quality financial advice and best of breed solutions and services.

Being privately-owned, we are free of ownership or control by the large banks and insurance companies that dominate Australian wealth management. We provide transparent, fee-based advice.

Today, our experienced, highly qualified and dedicated Private Client Advisers offer clients uniquely personalised financial advice, and develop financial solutions and services that are tailored to each client's unique set of circumstances and objectives.

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A copy of this document will be provided without charge upon request.