

PRESS RELEASE
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Family Law Property Settlements and the payment of Stamp Duty

The transfer of property from one party of a relationship to the other is one of the most common outcomes that many couples face during divorce.

However, what many couples do not realise is that they may not need to pay costly stamp duty fees on these transfers.

"In family law property settlements, there will often be an agreement whereby one party is required to sell or transfer their share in the former matrimonial home, or investment property, to the other party," said **msl | michael sing lawyers** family lawyer, Amy Sanders-Robbins.

"This agreement is normally formalised by way of Consent Orders filed with the Family Court of Australia, or by way of a Financial Agreement. Many believe stamp duty will attach to this sale or transfer," she continued.

However, parties will be exempt from paying stamp duty if:

1. the parties have entered into Consent Orders, which have been filed and sealed by the Family Court of Australia, and the Consent Orders are dated prior to the date of the transfer; and
2. the parties have entered into a Financial Agreement with the Financial Agreement being dated prior to the date of the transfer.

This stamp duty exemption will apply in Family Law property settlements irrespective of whether the parties are married or in a de facto relationship.

"The exemption on stamp duty under Consent Orders, Financial Agreements or Recognised Separation Agreements is however only applicable if the transfer of property, whether it is real property or a motor vehicle, is specifically referred to in the Orders or Agreement," said Ms Sanders-Robbins.

"To enable the exemption to be processed, the Office of State Revenue must stamp a copy of the Consent Orders, Financial Agreement or a Recognised Separation Agreement at the date of assessment," she said.

In some instances, authorised legal offices such as **msl** can stamp instruments in house.

In other instances, instruments must be sent to the Office of State Revenue for assessment. Every transfer must be supported with evidence as to the value of the property.

The evidence needs to be either a valuation provided by a registered valuer, or a real estate appraisal that lists three comparative property sales.

Incorrectly paying stamp duty can result in significant costs to both parties, running to several thousands of dollars.

If you are separating from your partner, it is essential that you obtain the correct legal advice in respect to Family Law financial settlements to avoid paying more than you have to.

msl is a one of Queensland's largest full-service law firms with award winning offices on the Gold Coast and Brisbane CBD.

For more information on this new legislation visit www.mslawyers.com.au or contact **msl** on 07 5597 8888 or info@mslawyers.com.au.

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