**Arthur Weller case study 2 – Transfer of property between spouses?**

Question:

A husband and wife want to transfer property in Bristol between them. What are the capital gains tax (CGT) and stamp duty land tax (SDLT) consequences?

Answer:

It is well known that when a husband and wife living together transfer property between themselves there is generally no CGT to pay (TCGA 1992, s 58; see also HMRC’s Capital Gains manual at CG22200). It is treated as ‘no gain no loss’ for the transferor, but also for the transferee, so if in future the transferee sells the property, their base cost will be what the transferor originally paid for it. However, the date of the start of ownership for the transferee will be the date of the transfer, not the original date of acquisition by the transferor.

As far as CGT principal private residence (PPR) relief is concerned, the transferee will not take over the PPR history of the transferor, unless the husband and wife were both living together in the property as their qualifying PPR at the date of the transfer (TCGA 1992, s 222(7); see CG54950). This possible loss of PPR relief may make a husband and wife think twice before doing such a transfer. As far as SDLT is concerned, this is based on the amount paid (the consideration) by the transferee to the transferor. If the transferee now takes over responsibility for a mortgage that the transferor was responsible for until the transfer, that is deemed consideration, and SDLT applies accordingly (see HMRC’s Stamp Duty Land Tax manual at SDLTM00330A - example 3). The extra 3% SDLT charge does not apply to transfers between husband and wife from 22 November 2017 (see SDLTM09810 - example 8).