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FAMILY LAWYERS & MEDIATORS

FREQUENTLY ASKED QUESTIONS

Do I need to wait until I am divorced to settle my property?

Property settlement and divorce are separate issues and there is no waiting period to progress your property settlement. Early advice in relation to your financial rights and obligations is highly recommended.

Are assets calculated at the time of separation or at the current time?

Whilst each case is different, commonly assets will be taken as at the time of settlement or final determination by the Court. As a general rule you should avoid selling or purchasing assets until settlement has been reached.

Do I need to disclose all of my financial affairs?

There are strict obligations upon both parties to any financial dispute to provide full and frank disclosure of their assets and financial resources including income and interests held in companies or trusts. This extends to assets or financial interests held overseas.

What time limits apply in Family Law matters?

If you are or were married, you must apply to the Family Court for property settlement and or spousal maintenance within 12 months of the date your divorce order takes effect. If you are or were in a de facto relationship you must apply to the Family Court for a property settlement and or spousal maintenance within two years of the date you separated. Subject to the requirement to participate in Family Dispute Resolution there is no time limit in relation to when you can make an application to the Family Court in relation to children's issues.

Do I incur Stamp Duty on the transfer of assets?

Upon the division of assets there can be stamp duty implications, eg transfer of home, vehicles, shares and business assets. Exemptions can apply if your settlement is appropriately documented by way of a Court order.

How long will it take to resolve my matter?

In the event you are unable to reach an agreement and it becomes necessary to commence proceedings, the Family Court of Western Australia estimates that matters will take approximately 2 to 2½ years to reach a final hearing.

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