

Briefing document

UK Property: Capital Gains Tax changes from 6 April 2020

Introduction

From 6 April 2020, there were significant changes to the reporting and payment regime in respect of capital gains made from disposals of UK land and property by individuals, trustees and personal representatives. The changes in the reporting regime primarily affect UK residents holding UK residential property, but the payment regime affects UK residents and non-UK residents alike. Similar changes apply to companies, but these are not covered in this note.

In addition to the changes in the reporting and payment regime, significant changes have been made to Private Residence Relief (PRR) for disposals on or after 6 April 2020. The changes are likely to increase the amount of tax due for UK residents and non-UK residents in many cases, as set out below.

The above changes affect disposals of UK land and property on or after 6 April 2020. For Capital Gains Tax (CGT) purposes, disposals are normally treated as being made on exchange of contracts (or on the satisfaction of the final condition in a conditional contract). This may be earlier than the date of completion.

Reporting and payment regime

UK residents

For disposals of UK residential property on or after 6 April 2020, UK residents may be required to file standalone CGT returns and make a payment on account of CGT within 30 days of completion. The payment on account will normally be the full expected CGT liability, but may exceed it in some cases (see comments regarding loss offsets below). The filing requirement is waived where there is no payment on account due. Typically, this exception will apply where full PRR applies to the property or it has been sold at a loss.

In determining the level of the CGT payment on account, capital losses incurred on other assets on or before the date of completion of the property sale can be taken into account in principle. In practice, quantifying the available losses within the 30 day filing window will not necessarily be feasible. For example, CGT on a residential property disposal on 1 May 2020 is due by 31 May 2020. Losses brought forward from 2019/20 and earlier years might be available, but the figures may not be known as the 2019/20 tax return is unlikely to have been completed (due date is 31 January 2021). Unless it is clear that there is no CGT payment on account due, the prudent position would be to submit a standalone return within 30 days of completion, together with a payment on account of 28% of the chargeable gain. Interest and penalties may apply if returns are not submitted and insufficient payments are made, as set out [below](#).

Losses incurred after the date of completion must be ignored in determining the CGT payment on account, even if they will ultimately be offset on the self-assessment tax return for the tax year of disposal. Any excess CGT will generally be repayable when the self-assessment tax return is filed.

Non-UK residents

Non-UK residents are already subject to the 30 day reporting regime for disposals of UK land and property. Unlike UK residents, there is no exception from filing obligations where there is no CGT payment on account due. The regime applies more broadly for non-UK residents, as it includes non-residential property and interests in certain 'property-rich' companies as well as residential property.

The reporting obligations for non-UK residents have not changed from 6 April 2020, but CGT may be payable sooner. For tax years up to and including 2019/20 it was often possible for taxpayers who filed self-assessment tax returns to defer payment of CGT until 31 January following the end of the tax year of disposal (e.g. 31 January 2020 for a disposal on 6 April 2018), although a return was still needed. Deferral is no longer an option from 6 April 2020, so CGT payments on account will be due within 30 days of completion.

Private Residence Relief (PRR)

PRR provides relief from CGT for periods when a property has been the owner's only or main residence. Finance Act 2020 included changes to two key elements of the relief for disposals on or after 6 April 2020:

1. Previously relief was always given for the final 18 months of ownership, provided the property had been the only or main residence at some point (the 'final period exemption'). This period has been reduced to 9 months. There are no changes to the extended 36 month period that potentially applies to disabled individuals and long-term residents of care homes.
2. Where all or part of a partially relieved main residence was let as residential accommodation, the previous rules provided for 'letting relief' of up to £40,000 per owner. From 6 April 2020 this relief will only be available for periods when the individual continues to occupy part of the property as his or her only or main residence (i.e. relief is denied if the whole property is let).

Where the disposal date is on or after 6 April 2020, these changes take effect for periods before and after the change (i.e. reliefs that have already accrued may cease to apply on 6 April 2020). For example, an individual who lived in a property for 4 years and then let it in its entirety for 6 could previously have qualified for PRR for 5.5 years out of 10 (actual occupation plus the final 18 months) together with letting relief of £40,000. If a gain of £400,000 were to arise on 5 April 2020, the chargeable gain would be £140,000 and CGT of up to £39,200 would be due on 31 January 2021. If the disposal occurred on 6 April 2020, PRR would be restricted to 4.75 years and there would be no letting relief, thus increasing the chargeable gain to £210,000 and the CGT to £58,800. The due date for the CGT would be 30 days from completion as set out above (potentially as early as 6 May 2020).

Penalties

Separate automatic penalties apply to late filing of the standalone CGT return and late payment of the CGT liability. These apply equally to UK residents and non-UK residents. The penalties are cumulative and can only be appealed if the taxpayer has a reasonable excuse for the failure. The key penalties are as follows:

<i>Late filing penalties</i>		<i>Late payment penalties</i>	
After 30 day deadline	£100	30 days after 31 January in the tax year following the year of disposal	5% of the tax due
More than 6 months late	Greater of £300 and 5% of tax due	5 months after first penalty	5% of the tax due
More than 12 months late	Greater of £300 and 5% of tax due	11 months after first penalty	5% of the tax due

Additionally, HMRC have the discretion to charge daily penalties of £10 per day up to a maximum of 90 days if the return is more than three months late.

Interest will be charged if the tax remains unpaid after 30 days from completion for all transactions from 6 April 2020.

Find out more...

This note reflects the law in force as at 11 August 2020. To find out more about any aspect of the above, please discuss with your usual Deloitte contact. If you do not have a usual contact, please contact Rachel McEleney (rmceleny@deloitte.co.uk).

For further information visit our website at www.deloitte.co.uk.

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