

## RESIDENTIAL PROPERTY CHANGES FROM 6 APRIL 2020



In a change expected to have a substantial impact for UK resident taxpayers, Capital Gains Tax (CGT) on UK residential property will be payable within 30 days on disposals from 6 April 2020. Currently the tax is payable up to 22 months after the sale, on 31 January following the end of the tax year.

From the same date - 6 April 2020 - there will be a significant reduction in the scope of the final exempt period for main residence exemption, to 9 months in most cases, and lettings relief, currently up to £40,000 per person.

Finally, in a tidying up exercise, two 'Extra Statutory Concessions', in which HMRC set out situations where they will permit a more favourable treatment than the law allows, are to be consolidated in the legislation. They relate to main residence nominations, and delays in commencing occupation of a residence, as explained below.

### 30 Day Payment for Residential Property Gains

The proposal for early payment of CGT was originally announced by George Osborne in November 2015, but its implementation has been delayed. It is now being introduced in conjunction with the extension of CGT payable by non-residents on UK land. From 6 April 2015 non-residents have had to pay CGT on disposals of residential property; from 6 April 2019 they are liable to CGT on direct and indirect disposals of all land, including commercial property, and the tax will be payable within 30 days, as it has been for 'non-resident' gains on residential property from 2015. From 6 April 2020, UK residents will be required to pay tax on UK residential property gains on the same 30 day timescale.

A return will generally have to be submitted to HMRC within 30 days of completion (although the date of the sale for CGT purposes will continue to be the date of exchange of contracts). A return will not be required for no gain/no loss disposals, for example transfers between husband and wife, nor for disposals where no tax is due.

The legislation sets out the procedure for calculation of 'notional' CGT. The computation will be finalised when the annual income tax return – for the tax year in which the disposal fell - is filed. For example, in the notional calculation other gains on assets other than UK land will not be taken into account, nor will capital losses realised later in the tax year. The resulting tax payment will be treated as a payment on account of the total liability for the tax year.

# PRIVATE CLIENT ALERT

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Typically, property conveyancers have prepared SDLT returns, which have a similarly short filing date of 14 (originally 30) days. We anticipate that they will not generally have the expertise, or the information, to prepare the new CGT returns. Particular care will be needed in determining whether or not tax is payable in cases where only partial, rather than full, main residence exemption is available, as explained in the following section. Partial exemption only might be available, for example, where the property has been let for part of the period of ownership. The change to lettings relief, described below, may also have an impact.

### **Changes for Corporate Non Resident Landlords**

From 1 April 2019, non resident companies are subject to UK Corporation Tax on their disposal of UK investment properties.

From 1 April 2020, Corporate non-residential landlords will be subject to UK Corporation tax on rental income, rather than UK income tax. A separate Rawlinson & Hunter alert on these matters will follow in the Autumn.

### **Main Residence Exemption and Final Exempt Period**

A gain arising on a property is wholly exempt if it has been the owner's only or main residence throughout his period of ownership. If there is more than one property used as a residence, it is possible to nominate which one is to be regarded as the main one qualifying for the exemption. The exemption is restricted if the 'only or main residence' condition is satisfied for only part of the period of ownership, and some permitted periods of absence qualify for the exemption; but a final period of ownership is treated as exempt in any event.

For a long time this final exempt period was three years; it was reduced to 18 months from 6 April 2014. From 6 April 2020, the final exempt period will in most cases be further reduced to 9 months. The three year exempt period was retained in 2014 for disabled persons and those living in care homes, and this will continue to be the position after 6 April 2020.

### **Restriction of Letting Relief**

Currently a relief of up to £40,000 is allowed for an individual, and up to £80,000 per couple, where a property is let and it is, or has been at any time in the past, the main residence. The relief could therefore be claimed if the home has not been occupied as a residence by the owner for many years. In principle, the £40,000, or £80,000, relief is available for more than one property, provided the main residence requirement is met.

From 6 April 2020, this relief will only be available to those who share occupancy with the tenant. This will significantly reduce the number of cases in which it is available. The existing rules will continue to apply for disposals up to 5 April 2020.

### **Late Nominations and Delay in Commencing Occupation**

The first concession to be legislated relates to late nominations specifying which of two or more residences is to be treated as the main one qualifying for the CGT exemption. Broadly speaking, a period of two years from the date on which the combination of residences changes is allowed for making the nomination. A longer period is allowed in specific circumstances where the individual is likely to be unaware of the need to make a nomination. The requirements are first that he had not previously made a nomination, and secondly that all but one of the residences have a negligible market value, for example rented accommodation.

The second legislated concession concerns delay in occupying a residence. Generally, main residence exemption will only accrue from the date occupation commences, but it will instead accrue from the date of acquisition if one of two qualifying events occurs in the first 24 months of ownership, and the property was not someone else's residence between the acquisition date and that event. The first event is the completion of the construction, renovation, redecoration or alteration of the property or part of it. The second event is the disposal of the individual's previous only or main residence. Currently the concession permits a delay of only 12 months, unless there is good reason beyond the individual's control.

## Consultation

The accountancy and taxation professional bodies have submitted representations to HMRC in response to a consultation document on the changes. It is possible that some amendments may be made before the legislation comes into force on 6 April 2020; but the present intention of the government is to proceed on the basis of the published draft legislation, on which this note is based.

## Planning points

A number of planning points can be drawn from these changes.

- If the sale of a property is contemplated, consider whether it can be completed before 6 April 2020.
- The sale of a buy to let property, in particular, is more likely to be affected by at least one of these changes.
- Contact us in good time before any property sale, to allow for collection of the required information, and preparation of the tax computation and return.
- Let us know if you think one of the legislated Extra Statutory Concessions applies to you.

If you would like to discuss anything arising from this note, call your usual Rawlinson & Hunter contact.

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