Get ready for changes to Capital Gains Tax for property sales

Finance Bill 2019 has introduced some major changes to Capital Gains Tax when it comes to selling your home. From 6 April 2020, UK residents selling residential property in the UK will have 30 days to notify HMRC and pay the Capital Gains Tax owed.

Failure to do so may result in a penalty as well as having to pay interest on what is owed

HMRC will launch a new online service to allow you to report and pay any Capital Gains Tax owed.

That's not all!

Not only do you now have less time to pay the bill but, the government are also reducing and removing certain reliefs.

Changes to Principal Private Residence relief (PPR) from 5 April 2020

At present, prior to 5 April 2020, on sale of a property, individuals are able to relieve themselves of Capital Gains Tax (CGT) liability through PPR relief. PPR relief exempts any gains made in periods of both actual occupation (where the seller was living in the property) and deemed occupation (where the seller was not living in the property but treated as if they were).

Periods of ownership which count as deemed occupation:

1. Any period of up to 3 years

2. Any period in which the owner of the property lived in 'job-related accommodation'

Under the new rules this is to be extended to military personnel who do not live in MOD accommodation but instead rent in the private sector as part of the MOD's "Future Accommodation Model"

3. Any period for which the owner had to work overseas in a full-time capacity

4. A period of up to 4 years in which the property owner has to relocate for work in the UK

For any of the above to qualify as 'deemed occupation' the seller must have occupied the property prior to the period of absence and afterwards.

5. Under current rules, providing that the property has been the seller's only or main home at some point, the last 18 months of ownership will be considered deemed occupation. The idea being to allow for the practicalities of selling and moving. The property does not have to be re-occupied for the relief to be available.

From 6 April 2020, this 18 month exemption will be reduced to nine months, meaning that an additional nine months of gain will be subject to capital gains tax. Existing rules allowing a 36 month final period exemption for the disabled or those living in a care homes will still apply.

Responses to the government's consultation show that the majority of respondents were of the view that the period of nine months was too short. Regional variations in the length of time it can take to sell a property as well as the complexity of divorce and separation, were cited as reasons justifying a longer final period exemption. The government however rejected these.

6. Delay in taking up residence (ESC D49). Due to any of the following…

1. Land purchased on which a property is to be built with the intension of being used as the only or main residence

2. Property purchased and modifications or redecoration is to be carried out

3. The disposal of the previous home is completed prior to using the new house as the only or main residence.

… all count as deemed as occupation for private residence relief purposes as long as it is for less than 12 months. Prior to the new rules coming in, this period was extendable to 24 months if there was good reason.

The new rules will make the allowable period 24 months from the date of acquisition in all cases

For periods of absence which do not qualify as deemed occupation, the gain is time-apportioned against the whole period of ownership.

Prior to the new rules coming in, transfers between spouses did not mean that the spouse acquiring the property also acquired their spouse's occupancy for PPR relief.

In order to ensure fairer outcomes, changes are to be made so that, where an individual transfers all or part of their interest in any residence to their spouse, the receiving spouse will always inherit the transferring spouse's ownership history.

Prior to 5 April 2020, In addition to PPR, as long as the property was the seller's only or main home at some stage, a separate relief known as Lettings relief is available for the period the property was rented out.

Lettings relief reduces the amount of gain brought into charge however:

1. Lettings relief can never exceed the amount of the PPR relief.

2. Lettings relief cannot be more than the gain arising during the period of absence in which the property was let out.

3. Finally, the maximum amount of lettings relief is £40,000.

Under the new rules this is to be reformed so that it only applies where the owner is in shared occupation with the tenant. The change to lettings relief means that, where the owner is not living in the property, no relief will be available beyond the period for which the property qualifies for PPR.

The general consensus seems to be that the new rules should only apply to lettings made after 5 April 2020 and thus allowing relief to be claimed for the period the property was rented prior to 5 April 2020. The government has also rejected this suggestion.

This means, Letting relief already accrued under the current rules would be wasted.

Worked example of the impact of changes

Mr Patel sells a property on 8 August 2019. He owned the property for ten years. He lived in it for the first five years and rented it for three and a half years after moving out.

He makes a gain of £120,000.

Mr Patel is a higher rate tax payer

Under the current rules, Mr Patel would benefit from PRR for five years (being his period of occupation of the property) plus the last eighteen months of ownership of the property (so 6 and a half years or 65% of the period of ownership). This means that £78,000 of the gain will be exempt from CGT. The remaining £42,000 is not covered by PRR and this represents his chargeable gain. However, under current rules lettings relief is available to exempt the remaining gain. Therefore, Mr Patel's CGT liability on the sale of his property is nil.

However, suppose that Mr Patel was unsuccessful in selling his property in August and it takes until 7 May 2020 to sell his property. Under the new rules, Mr Patel would benefit from PRR for five years (being his period of occupation of the property) plus the last 9 months of ownership of the property (57.5% of the period of ownership). Mr Patel will now be exempt from CGT on £69,000 of the gain. The remaining £51,000 is not covered by PRR and there is no longer any lettings relief available because Mr Patel never was in shared occupancy with his tenant. This means that Mr Patel's gain for CGT purposes will be £51,000.

Under the new rules, assuming Mr Patel has full Annual Exemption available, his liability would be £10,920

This represents an increased tax bill of around £11K following the changes.

HMRC say that the changes will increase the public's purse by around £470m by the end of the 2024 tax year.

Summary

1. Must notify HMRC and pay the tax owed within 30 days of the sale taking place

2. Deemed occupation for the final period reduced from 18 to 9 months. (Disabled people and those living in care homes not affected)

3. Inter Spouse transfers - the receiving spouse will now inherit the transferring spouse's ownership history.

4. Delay in taking up residence (ESCD49) will be 24 months in all cases

5. Letting relief only available in situations of shared occupancy with tenant