Berringers

CHANGES TO THE CAPITAL GAINS TAX (CGT) RULES ON THE SALE OF A SECOND RESIDENTIAL PROPERTY WITH EFFECT FROM 6 APRIL 2020

HMRC are introducing new legislation on the disposal of second residential properties with effect from April 2020. This will effect individuals who are looking to dispose of properties (other than your main residence). Please note, that if you are looking to move home, the new rules do not affect your main residence and the Principal Private Residence Relief will still apply.

New Return and Capital Gains Tax payment window

HMRC have announced that there are to be changes to the way CGT is to be paid and declared with effect from April next year.

From 6 April 2020, a disposal of a residential property will have to be recorded with HMRC via a capital gain tax return within 30 days. Along with this, if capital gains tax becomes payable as a result of the disposal, this must also be paid within the 30 days period.

Failure to submit the return and pay on time will result in HMRC charging interest and potential penalties for late filing/failure to notify.

The new rule change also applies even where there is no consideration, for example, when a property is gifted to children.

At present, a taxpayer would report any capital gains on their self-assessment tax return, with the resulting tax being payable by 31 January following the year in which the gain was made.

The payment of CGT will be a payment on account. The payment on account takes into consideration any unused losses and the individual's annual exemption. The rate of tax for individuals is determined after making a reasonable estimate of the amount of taxable income in the year.

The gain will then get reported on the individual's tax return as normal with the corresponding CGT paid and any under/overpayment will be dealt with via the Self-Assessment Tax Return.

Changes to Principal Private Residence Relief (PPR)

With effect from 6 April 2020, the final period exemption is being reduced from 18 months to 9 months.

Currently, the final period exemption means that individuals do not have to pay CGT on gains made in the final 18 months of ownership, even if they are not an owner-occupier during that period. This period (previously 36 months) was to protect those who move into a new main residence but are unable to sell their home immediately.

From April 2020, the exemption will be reduced to 9 months. As a result, if you are selling a second property that, at some point, you lived in, the capital gain will potentially be higher due to this reduction. HMRC state that the 9 month period is still twice the length of the average property transaction.

Please note, the special rules that give those in or moving into care homes, and people with a disability, 36 months of exemption will not change.

Changes to Lettings Relief

Again, with effect from 6 April 2020, the lettings relief legislation will change.

Currently, lettings relief is a useful relief to reduce any potential capital gain arising from the disposal of a rented property. This relief is available to individuals who let out a property that is, or has been at any point in the past, their main residence.

The lettings relief available on a disposal is currently the lower of:-

- The amount of gain attributable to the letting proportion of the property
- The amount of PPR relief that can be claimed
- £40,000

Usually, when the property has been rented out for a number of years, the maximum £40,000 applies. The £40,000 is available to both spouses if owned as a couple and therefore a potential £80,000 relief can apply upon disposal!

From April 2020, lettings relief will only be available to individuals who were sharing occupancy of the property, as their main home, with a tenant throughout the period of letting. This change will affect most people who rent out a second property that they previously lived in and, as a result, a larger capital gain will arise.

Detailed below is an example of a disposal of a property before and after 6 April 2020, to show you the effects of HMRC's changes:-

Example

A property that is jointly owned, is sold for £750,000. The property was purchased in April 2000 for £300,000. The owners lived in the property for 6 years and then let the property out until sale. Both individuals are higher rate taxpayers.

Sold on 1 January 2020		Sold on 6 April 2020	
Proceeds	£750,000	Proceeds	£750,000
Less:		Less:	
Cost	£300,000	Cost	£300,000
Gross Gain	£450,000	Gross Gain	£450,000
Less:		Less:	
PPR relief – lived	£136,709	PPR relief – lived	£135,000
PPR relief – final period	£34,177	PPR relief – final period	£16,875
Lettings relief (x2)	£80,000		
Net gain	£199,114	Net gain	£298,125
Annual exemption (x2)	£24,000	Annual exemption (x2)	£24,000
Chargeable gain	£175,114	Chargeable gain	£274,125
Joint CGT payable @ 28%	**£49,032**	**Joint CGT payable @ 28%**	**£76,755**
CGT payable on 31 January 2021		**CGT payable on 6 May 2020**	

As shown in the above example, the substantial increase in capital gains tax will mostly affect individuals that have occupied the property at some point, due to the withdrawal of the lettings relief. However, the reduction in the time available to pay the capital gains tax will affect all!

The example is clearly showing the advantages that could be available with careful CGT planning in a relatively simple situation, however, as every situation is different, professional advice should be sought when tax planning – **if you would like advice on a specific transaction, or have any CGT queries at all, please contact our Tax Partner, Dan Self (dan@fwberringer.co.uk), the tax team (tax@fwberringer.co.uk), or the Partner that looks after your affairs at Berringers.**

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