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BUSINESS UPDATE

Changes to Capital Gains Tax Private Residence & Letting Relief

Disposing of property? There are important tax changes on the horizon. The date to keep in mind is 6 April 2020. Disposing of a property on or after this date means you will need to factor in new Capital Gains Tax (CGT) Rules.

Home Sweet Home

For many, owning and selling their own home is thought to be tax free but, as always, tax is never quite as simple as that.

Principal Private Residence Relief (PPRR) is a set of tax rules which are designed to ensure that the sale of a person's home is exempt under certain conditions. Generally, if you own one home, live in it and sell it, any gain will be tax free but suppose you lived elsewhere due to a work secondment and let your old home out, then what?

The existing rules can be complex but allow PPRR for a number of specific absences from the property, including periods of letting. The Government is making a number of changes to the PPRR rules and we thought that we should make you aware of the more important ones below.

Broadly, all of the changes apply to transactions undertaken from 6 April 2020.

Change 1 - Transfers between married couples

The general rule for CGT is that transfers of assets between married couples and civil partners take place at no gain/no loss. In addition, the PPRR rules provide that where one spouse makes a transfer of their only or main residence to the other, the receiving spouse inherits the other spouse's period of ownership of the dwelling even if that period started before marriage. This rule does not however apply to a dwelling which is not their main residence at the time of the transfer. There may be positive or negative effects of a transfer depending on the relevant circumstances.

To make the tax rules consistent the new rule provides that when a spouse or civil partner transfers an interest in a dwelling to their spouse or civil partner (whether or not the dwelling is their only or main residence at the time) the receiving spouse or civil partner will inherit the transferring spouse or civil partner's ownership history, including their previous use of the property.

Change 2 - The final period of ownership

Generally, the final period of ownership of a person's home will be tax free, irrelevant of whether it is actually occupied as such. The final period exemption will be reduced from eighteen months to nine months. The rules which give thirty six months relief to those with a disability and those in or moving into care, will not change.

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Change 3 - Lettings relief

Lettings relief was introduced to ensure that people could let out spare rooms within their property on a casual basis without losing the benefit of PPRR. The Government considers lettings relief extends much further than the original policy intention and also benefits those who let out a whole dwelling that has at some stage been their main residence.

At present, lettings relief gives up to £40,000 relief (£80,000 for a couple who jointly own the property) for someone letting part, or all, of a property which is their main residence or was the former main residence at some point in their period of ownership. But, under the new regime, lettings relief will only be available where you jointly share occupation with a tenant.

The new rules state that where a gain arises on a person's home and at any time in the individual's period of ownership:

- part of the dwelling house is the individual's only or main residence; and
- another part of the dwelling house is being let out by the individual as residential accommodation otherwise than in the course of a trade or business

then lettings relief may be due (see example (right)).

Effectively, this means that lettings relief will not be available for those periods where an owner has moved out of the property and therefore no longer shares occupation with a tenant or tenants.

These new rules will apply for disposals from 6 April 2020, regardless of when the period of letting took place, even if before April 2020. This is likely to considerably reduce its scope.

We have only been able to provide an overview of the new rules here and complexities can arise. Examples include periods of absence from a main residence or ownership of more than one property. Please do talk to us for advice on your individual circumstances.

Example of where the letting changes have effect

Eric purchased a house for £200,000 on 1 January 2000. He sold it for £350,000 on 31 December 2020. During Eric's twenty year (240 months) ownership he:

- *lived in the house as his only residence for seventeen years (204 months)*
- *let the entire property for three years (36 months) before selling it*

The net gain is £150,000 and PPRR will be available for the period Eric occupied the house as his main home which is 204/240 months. This means that of the gain £127,500 is eligible for relief, leaving a potential gain liable to CGT of £22,500.

Eric also qualifies for 9 months of final period exemption which is £5,625. This reduces the potential taxable gain to £16,875 (£22,500 - £5,625).

As Eric was not in shared occupancy with his tenants, lettings relief does not apply for the three years that he let the property. (If the sale had been before 6 April 2020, this gain would have been eligible for letting relief.)

If Eric has not used his annual exempt amount for the year (which for the year 2019/20 is £12,000) he can further reduce the taxable amount to £4,875 (£16,875 - £12,000). If Eric is a higher rate tax payer he will pay CGT of £1,365 (£4,875 x 28%).

Change 4 - Need to report and pay tax

From 6 April 2020, there is also a major change to the deadlines for paying CGT when disposing of a residential property.

In addition to the changes to PPRR, the Government is also introducing a reporting requirement on the sale of all UK residential properties. This would include residential investment property and also situations in which the sale of a person's home is not fully covered by PPRR. This may apply when a second home, an inherited property or a rental property is sold or otherwise disposed of.

In future there will be a thirty day window after the completion date for the property disposal to file a Return, calculate and make payment on account of the CGT bill. This changes the current procedure, with payment made as part of the self assessment cycle and CGT payable by 31 January of the tax year following the year of disposal. If no payment is due reporting will not be required. This would be the case if, for example, PPRR is available in full.

The new requirements are a significant reduction in timescales and individuals, trustees and personal representatives should all be aware of the forthcoming change.

What to do next?

As can be seen, the above changes may be both complex and financially significant, particularly the changes to lettings relief which are effectively retrospective. However, there is time to plan ahead. If you think that any of the changes may apply to you, please get in touch as soon as possible to discuss possible planning opportunities.