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Capital Gains Tax on residential property: Changes from 6th April 2020

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Although property transactions ground to a halt during lockdown, the market is now thriving due to pent-up demand. However there are new and potentially significant rules relating to property sales that you might not be aware of that **could have an impact on your tax planning and cash flow**.

From 6 April 2020 HMRC introduced new rules to the way disposals of UK residential properties must be reported and the payment date of any Capital Gains Tax (CGT).

These changes apply to **disposals made on or after 6th April 2020 by UK Residents**. Where there is a gain and CGT is payable, that **gain must be reported to HMRC within 30 days of completion,** and rather than have the option to pay CGT on 31 January following the end of the tax year in which the gain was made, **any tax due is also payable within 30 days**. Non-Residents have already had this reporting obligation since 6th April 2015.

Your tax bill may increase

These changes do not change the way the capital gain and the associated tax is calculated. However, there are 2 separate provisions that come into effect from 6 April 2020 that **may increase the tax payable**.

The first is **the withdrawal of lettings relief**, which gave potential relief of up to £40,000 of any gains where at some stage the residential property was the owners sole or main residence. This relief is now only available where the owner is living in the property during the letting.

The second is **the reduction of the exempt period for CGT where the property has been a main residence but you were not living there prior to disposal**. This period relates to the last months of ownership and has reduced from 18 months to 9 months.

A disposal of a residential property (other than your principal private residence) will be liable to CGT if the property is sold, gifted or transferred to someone else, other than your spouse. The gain must be reported to HMRC using the Capital Gains Tax on UK Property Service on the gov.uk website. If you already complete a Self-Assessment tax return (SATR), the capital gain will also need to be declared on that return, with credit being given for any CGT already paid. If you do not complete a SATR and the gain is a 'one off' disposal there is no need register for Self-Assessment, the report and payment will suffice.

If there is no tax to pay because a loss is made or the gain is covered by the CGT annual exemption (currently £12,500 per annum) or another relief, then no report will be required. The new rules also apply to trusts and periods of administration in deceased estates.

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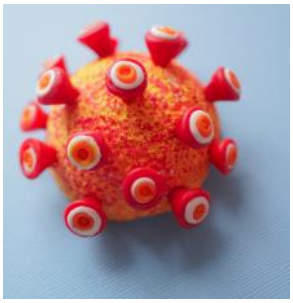
Flexibility during the pandemic

HMRC have made allowances for the new regime stating they will not issue late filing penalties for CGT payments on account where returns are received late up to and including 31st July 2020.



For UK residents this means there will be no late filing penalties for transactions completed between 6th April and 30th June 2020 and reported up to 31st July 2020. However, transactions completed after 1st July 2020 **will receive a late filing penalty** if they are not reported within the 30-day period. If the tax remains unpaid after 30 days, **interest will accrue on the outstanding sum**.

Where payment is difficult due to covid-related issues, **HMRC have indicated that they will be flexible**. However, this is unlikely to help sellers who have received proceeds on the sale of the property and where they would be expected to pay the tax from these proceeds.

Some practical considerations

1. Ensure you have calculated any potential gain before you dispose of the property. It is probable that you will require assistance from your accountant both in terms of calculating any reportable gain and the actual reporting of the gain.

2. Ensure the return is filed and payment made within 30 days of completion as penalties and interest will apply. These are a £100 automatic penalty if late, if more than 6 months late a £300 penalty or 5% of the tax due, whichever is higher.

3. Note in 2 above - it is the **date of completion that counts for the report and payment of the tax NOT the date missives or a bargain was concluded**, which normally determines which tax year the gain falls into.

4. You can **use estimated figures for your report rather than delaying** making one. You have up to 12 months to go back and amend the report for actual figures, alternatively the figures can be amended on a self-assessment tax return.

5. Multiple disposals in a tax year will require a separate report for each disposal.

6. Repayments of tax can be claimed if losses are made on subsequent disposals.

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Some practical considerations continued

7. Repayment of tax can also be made if the CGT was paid at the higher rate and it transpires the lower rate should have applied.

8. You will be given a payment reference number once a report is submitted to pay the tax. This reference is separate to the Unique Taxpayer Reference (UTR) number.

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