

Tax on the Sale of UK Property

Non-resident Individuals

Since April 2015 non-resident individuals have had to pay a capital gains tax (CGT) charge on the disposal of all UK residential property. This was extended from April 2019 to commercial property and shares in a property company.

Rate of tax for individuals

The tax rate for non-resident individuals will be the same as the rates applicable to UK resident individuals. CGT is charged at a rate of 18%, or 28% if they are higher rate taxpayers. Non-residents will therefore be required to declare their UK income to determine whether or not they are liable to the lower or higher rate of CGT. Non-resident individuals will also be able to use the annual exemption, currently £12,000, to reduce the CGT payable.

Treatment of losses

Losses on disposals of UK residential property will be ring-fenced and will be able to be used to reduce gains on disposals of other UK residential property arising to the same person, either in the same period or a later period.

Rebasing provisions

Rebasing provisions ensure that only the portion of the gain accruing after 5 April 2015 will be subject to the CGT charge on residential property and the gain accruing after 5 April 2019 for commercial property and shares in a property company. However, the rules also allow a time-apportionment of the whole gain with the taxpayer able to opt for whichever gives the best tax result. Taxpayers will also have the option to use neither of the rebasing provisions and may instead compute the gain (or loss) over the whole period of ownership.

Principal Private Residence Relief

Principal Private Residence (PPR) relief is available to ensure that individuals do not pay CGT on gains accruing on a property during periods when that property is their main residence.

Generally, a non-UK resident will not have their main residence in the UK and so the PPR relief will not be appropriate. A property will only be treated as an individual's PPR where the person has either been tax resident in the same country as the property for that tax year or resided in the property for at least 90 midnights in the tax year. This applies equally to a UK resident individual disposing of an overseas residence.

Provided a property has been the only or main residence at some point during the period of ownership, from 6 April 2020, the last nine months of ownership are treated as a period of occupation (prior to this it was 18 months).

Lettings relief

There is currently a lettings relief available where the property has at some time been your main residence, enabling landlords to reduce their capital gains tax liability by up to £40,000 of chargeable gain. From 6 April 2020, this lettings relief will only apply when the owner of the property is in shared occupancy with a tenant.

Trusts

All types of non-resident trust fall within the scope of the new charge and PPR relief will be available to non-resident trustees when the beneficiary meets the appropriate conditions. The new charge will take precedence over existing anti-avoidance provisions that attribute gains to settlors or beneficiaries of non-resident trusts.

Non Resident Companies

Since April 2015 overseas companies have had to pay a capital gains tax (CGT) charge on the disposal of all UK residential property. This was extended from April 2019 to commercial property and shares in a property company.

Also, since April 2019 overseas companies have to pay Corporation Tax on disposal of UK property, rather than Capital Gains Tax.

Non-resident companies can benefit from a form of indexation allowance up to 31 December 2017 and there is an option for groups of companies to offset gains and losses made on disposals of UK property by different members of the same group, subject to certain conditions being met.

Where companies are not a member of a group, or where they do not elect to pool the losses, losses will be treated in the same way for companies as they are for individuals.

Reporting and payment

Individuals

All non-UK resident individuals need to report both the disposal of the property and the capital gain on it to Her Majesty's Revenue & Customs (HMRC), through a Non Residential Capital Gains Tax Return (NRCGT) within 30 days of completion of sale. From 6 April 2020 Capital Gains Tax needs to be paid to HMRC within 30 days of the sale of the property. A late filing penalty will be imposed by HMRC if the 30 day deadline is missed. OptimusTax Limited can submit a NRCGT Return for our clients for a fee.

Companies

From 6 April 2019 Corporation Tax, rather than Capital Gains Tax is charged to corporations making gains from UK property.

If you do not already submit a Corporation Tax Return you will need to register your non-resident company to do so in order to pay the Corporation Tax owed on the disposal of UK property. The deadline to do this is within three months of the date of disposal and a late filing penalty will be imposed if the deadline is missed.

IMPORTANT NOTE: The comments above describe the position under current legislation, and of course, are subject to change if legislation changes.