Non UK residents: Sale of UK residential property

Non-UK residents that own residential property in the UK are liable to capital gains tax (CGT) when the property is sold. This includes rights to acquire property "off plan". The following is for guidance only.

Sale of the property

The individual must notify HMRC of the transaction within 30 days of the sale completing, by filing a Non-Resident Capital Gains tax (NRCGT) return.

Any principal private residence election should be made as part of that notification.

They must provide details of the gain on the NRCGT return and pay over any CGT due at the same time.

Even if there is no CGT to pay, a NRCGT return must still be filed.

If the individual already completes UK tax returns, they will still need to complete the NRCGT return within 30 days of sale and will also have to declare the disposal on the relevant year's tax return.

Calculating the gain: property purchased before 6 April 2015

There are three options when calculating the gain:

- *Default option*: the acquisition cost will be replaced by the value of the property on 6 April 2015;
- *Election option 1*: the gain will be calculated over the whole period of ownership and then apportioned on a straight-line basis with the taxable part being that arising post 5 April 2015;
- *Election option 2*: the gain will be calculated over the whole period of ownership with no apportionment.

To use either of the latter two options, a specific election must be made; otherwise the default option will be used.

Advice should be taken to help decide which option is most beneficial.

Calculating the gain: property purchased on or after 6 April 2015

The purchase price of the property will be the cost for capital gains tax purposes. Expenses incurred at purchase, such as stamp duty and legal fees, are also allowable costs.

Valuations

As noted above, there are various options available when calculating the taxable capital gain. This is something that can be decided at the time the property is sold to make sure the most beneficial election is used for tax purposes.

Whilst it would be useful to have an idea of the property's value at 6 April 2015, there is no strict requirement to have a formal valuation of the property. However, HMRC may be less likely to challenge a formal RICS valuation but there is no guarantee they will not do so.

If HMRC does challenge the valuation, it may be necessary to appoint the firm who carried out the original valuation to negotiate with HMRC. If the property is not sold until some years down the line, there is always the possibility that the firm may no longer exist.

Calculating the CGT

An annual exemption (£12,000 for 2019/20) is available and any remaining gain is taxed at 18% or 28% depending on the size of the gain and how much taxable UK income, if any, the individual has in the tax year of disposal.

Assuming there is a double tax treaty in place, relief for any UK tax paid should be available to reduce any tax due on the gain in the individual's country of residence.

Principal Private Residence Relief

Principal Private (or "main") Residence Relief (PPRR) will still be available to non-UK residents in certain circumstances.

How we can help

We would be happy to assist you in determining the gain arising on the sale of UK residential property, what reliefs are available and which calculation option is the best for your circumstances.

We can also help with making the notification to HMRC, completing tax returns where appropriate and calculating the CGT due.

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About Cripps

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Our private client department is one of the largest in the UK with more than 100 people supporting clients through every stage of their life from finding their first property to succession planning, powers of attorney and wills.

We have a specialist team dedicated to residential investment into the UK through property and have been providing legal services to these international clients for more than 30 years.

The team is ranked as a national leader by a number of directories including Citywealth, eprivateclient, Legal 500 and the Chambers HNW Guide.

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