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CHARTERED ACCOUNTANTS & CHARTERED TAX ADVISERS

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30 DAY REPORTING FOR SALE OF UK RESIDENTIAL PROPERTIES

As we have mentioned in some of our previous articles, there was a change in 2020 to the reporting and paying of Capital Gains Tax (CGT) in relation to disposals of UK residential property. This change came into effect on 6 April 2020 and with the recent boom in the property market, we have seen an increase in enquiries in connection with the new regime. If you have recently sold a property, or are planning to, then you may need to take urgent action.

What changed on 6 April 2020?

The changes brought in on 6 April 2020 mean that where the disposal of the residential property results in a gain on which CGT is payable, this must be reported to HM Revenue & Customs (HMRC) within 30 days following the date of completion, and the tax due must be paid over by the same date.

This is a significant timing difference, as previously the gain would have been reported on individuals' annual Tax Returns and the tax paid over to HMRC by 31 January following the end of the tax year in which the disposal occurred. Indeed, the gain will likely still need to be reported on an annual Tax Return as well as a 30-day Return. The change in law has not changed any of the rules in relation to which gains are taxable or the rate of tax that is payable.

As you will appreciate, 30 days is not long to consider the position, prepare any necessary computations, report the gain to HMRC and pay the tax liability arising. If the deadline for filing the CGT UK Property Return is missed, an automatic £100 penalty can be charged with potential further penalties of £10 per day if the Return is still outstanding after three months.

Who do these rules apply to?

The following UK tax resident persons are within the scope of the 30-day CGT rules:

- Individuals;
- Trustees;
- Personal representatives;
- Partners in partnerships and limited liability partnerships; and
- Joint owners of property.

There are similar but different 30-day reporting rules for non-UK residents, covering both residential and non-residential property disposals, but these are beyond the scope of this article.

What disposals are caught?

The 30-day reporting regime catches any disposals of UK residential properties that result in a gain on which CGT is payable. Therefore, disposals of overseas residential properties are not caught (although there may be requirements in the overseas jurisdiction). Neither are UK residential property disposals that result in a loss or which do not give rise to a CGT charge e.g. because the gain is covered by the CGT Annual Exemption (£12,300 per individual for the current tax year). These disposals may still need to be reported on annual Self-Assessment Tax Returns.

This also means that if the gain is fully covered by a CGT relief, it is not usually caught. An example of this might be a disposal of your main home, which is fully covered by principal private residence relief. However, it would apply to the disposal of a UK second home, a property you have never lived in (or only lived in for part of the ownership period) or a UK let property, whether or not you lived in that property at some point.

It is important to understand that the rules do not just apply to sales of property, they apply equally if you were to gift a property (e.g. to an adult child) even though you may not have received any money in exchange. A gift constitutes a disposal for CGT purposes with the deemed proceeds being the market value. This is an area which is frequently overlooked. If the disposal of the property is to a spouse or civil partner then such disposals take place at 'no gain/no loss' for CGT purposes, so no CGT liability arises and no 30 day CGT Return is required as a result.

30-day payment window

You have just 30 days following completion of the sale of the residential property to pay the CGT you estimate is due on the gain made from the sale. Interest will be charged on any CGT payment made after the 30-day deadline.

Some key points and planning tips

- The 30-day payment and declaration apply regardless of whether you are in the Self-Assessment system or not;
- Self-Assessment taxpayers will continue to report the gain on their Tax Return and pay any CGT over and above the provisional payment by the usual Self-Assessment deadlines;
- The 30-day time limit is triggered by the completion date (although the exchange of contracts is still the date of sale for CGT purposes);
- 30-day CGT Returns are not required for disposals of UK residential property where no tax is due;
- 30 days isn't very long! Funds will need to be put in place to cover the CGT liability arising as soon as the sale is completed;
- As mentioned above, remember gifts can also result in gains, but don't produce any cash, so make sure the funds are available before the gift is completed;
- If you are planning a sale then gather the information required to compute the gain sooner rather than later, so that the tight deadline may be met;
- To work out the provisional CGT payable, your taxable income for the year will need to be estimated to determine how much CGT is payable at 18% and how much at 28%;
- Other CGT disposals which are not subject to these rules (e.g. sale of shares or commercial property) may be ignored in calculating the provisional tax due (but see below re losses);
- Capital losses brought forward from earlier years or made in the same year as the gains (but prior to the date of sale) can be offset if desired. You may want to give some thought as to whether any capital losses can be realised prior to the sale of the property, in order to reduce the CGT payable after 30 days of the sale of the residential property.

The above is for general guidance only and no action should be taken without obtaining specific advice.

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