



# Selling UK residential property

## Changes from 6 April 2020

Some important changes to taxation on disposal of UK residential property come into effect from 6 April 2020. These changes may both increase the overall tax payable on a sale of UK residential property and accelerate the reporting and tax payment deadline.

### Reporting and payment

From 6 April 2020, UK resident individuals, trustees and personal representatives who realise a taxable gain on the disposal of a UK residential property may need to make a payment of tax within 30 days of completion. A special return may also need to be filed by the same date, irrespective of whether or not the seller is already in self-assessment.

Similar rules already exist for non-UK residents disposing of any UK property.

This brings forward the reporting and payment deadline significantly, in some circumstances almost 21 months earlier than under current rules.

For example, if contracts are exchanged on a residential property sale on 31 March 2020, the disposal takes place in the 2019/20 tax year. The current rules will apply and the calculation, reporting and payment of tax will all be via the usual self-assessment process, with tax being payable by 31 January 2021.

In contrast, if contracts are exchanged on 30 April 2020, this is a sale in the 2020/21 tax year and the tax calculation, reporting and tax payment may need to be done within 30 days of completion. This could be considerably earlier than January 2021.

A disposal includes transfers, for example to a trust, and gifts. No gain/no loss transfers such as transfers or gifts between spouses are specifically excluded from the new rules.

### Payment on account

A calculation is required to estimate the payment on account due. Private residence relief (PRR), the CGT annual exemption, brought forward losses and losses that have already arisen in the tax year may be taken into account.

A reasonable estimate of income levels will also need to be made as this may affect the rate of CGT payable.

Reporting within 30 days is only required where a 'payment on account' is payable under these new rules.

Where a taxpayer is in self-assessment, the disposal will also need to be reported on the relevant tax return. The payment on account will be set against the taxpayer's total tax liability for the year.

If the payment on account is found to be too low, this should not result in interest or penalties as long as reasonable estimates were used.

### Restrictions to private residence relief (PRR)

Following a consultation on proposed changes to PRR, draft legislation was published in July with changes due to take effect from 6 April 2020. These changes have not yet been enacted.

### Final period exemption

PRR can exempt a gain from CGT, in whole or in part, where an individual sells their 'only or main residence'. There is a grace period, the final period exemption, which always qualifies for PRR regardless of the property's use during that period. This final period exemption was 36 months until April 2014, is currently 18 months and from 6 April 2020 is expected to be reduced to 9 months. The special rules that give those with a disability and those in care a final period exemption of 36 months will not change.

It is important to note that the gain on disposal of a property is calculated over the whole period of ownership, and PRR given on a time apportionment basis. Even if the property has always been an individual's only or main residence, in a flat or falling market there can still be tax payable where the amount of time between moving out and selling exceeds the final period exemption.

Where two residences have been lived in during the same period, for example one during the week and the other at weekends, it has been standard planning to make a main

residence election and vary this to the second property for a short time. This may have been done to lock in the final period of ownership exemption on that second property. It is then possible that a small gain may arise on the first property as a result of such planning, which may bring the new reporting and payment rules into play.

### Lettings relief

Lettings relief can reduce the CGT payable on the sale of a property, which was at some point used as the taxpayer's only or main residence, and which has also been let as residential accommodation. The relief available is at most a £40,000 reduction in the taxable gain arising on sale, although may be less. For a couple owning a property in joint names the relief can be up to £80,000, resulting in a tax saving of up to £22,400 between them.

Under the new rules, the homeowner will need to have been in shared occupancy with the tenant to benefit from lettings relief, significantly limiting its availability. Currently, where there is just one lodger, this usually does not affect PRR and so there may be limited circumstances in which this relief will continue to apply. There are no transitional rules, so periods of letting before 6 April 2020 also fall within the new rules.

### Spouse transfers

The rules are also being changed so that from 6 April 2020, where a property is transferred between spouses, the receiving spouse will always inherit the transferring spouse's period of ownership and the use to which the property was put during that time.

## How can S&W help?

Anyone who is thinking of selling or transferring a UK residential property that will not attract full PRR should make sure they understand the impact of these new rules. We can confirm for you the impact that a sale before or after 6 April 2020 will have on the taxable gain, reporting and the due date of tax payment.

We can also deal with all the reporting requirements for you. It would be helpful for us to know when exchange has taken place, so we can start preparing the data needed for post completion reporting if this is required.

If you are contemplating a disposal that may fall within these new rules, please contact your usual Smith & Williamson adviser or:

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