

CGT: New Restrictions on Principal Private Residence Relief Consultation now published

1. Background

- 1.1 HMRC published a consultation on 1 April 2019 on changes to principal private residence (**PPR**) relief which were originally announced in the 2018 Budget. Historically PPR has only applied to that part of a dwelling that has been used as the owner's only or main residence and has potentially been a very useful relief because when the conditions are met, all (or part) of the gain arising on the disposal of an individual's main residence is exempt from CGT.
- 1.2 The principal points arising from the Consultation are set out below.

2. Final Period Exemption

- 2.1 The first principal proposal is to reduce the exemption for the final period of ownership of any dwelling that is, or has in the past been, a person's main residence from eighteen months to nine months. This rule was always intended to help those who need to move, perhaps for work reasons but had trouble selling their home after moving to another. This exemption was originally thirty-six months when first introduced and it was reduced to the current eighteen months with effect from 6 April 2016, although there are special rules to allow disabled homeowners and those who go into residential care to claim the full thirty-six months' relief. These will not change in the current reforms.
- 2.2 The proposed reduction to nine months seems a little harsh bearing in mind the housing market is far from buoyant as a result of the continuing uncertainty over Brexit and other factors, particularly at the higher end of the market. Comments have been requested in the Consultation to the reduction of the Final Period Exemption but it is perhaps unlikely that the reduction would be altered in the final legislation.

3. Lettings Relief

- 3.1 The second main proposal relates to Lettings Relief, which will be restricted to those who share occupation of their house with a tenant. Lettings relief was originally introduced in 1980, to allow people to let out spare rooms within their property on a casual basis without losing the benefit of PPR Relief. In practice, HMRC have found that lettings relief is being used though for purposes beyond the original intention, benefitting those who let out a whole dwelling that has, at some stage, been their main residence. The reforms mean that lettings relief will not be available for periods where an owner has moved out of the property and therefore no longer shares occupation with a tenant or tenants. This effectively abolishes PPR Relief for buy to let purposes.

- 3.2 This is hard for those who intend to move and let their old residence rather than sell it. This period of absence will now be taxable in full in most cases apart from the Final Period Exemption of 9 months under the new rules. The new relief will be available only in a very limited number of cases e.g. bed and breakfast establishments where the owner lives on site. Where there is a casual letting to lodgers, relief has generally not been restricted in any way if it could be argued that no part of the house was exclusively let to third parties. Under the existing rules a person could own a rental property which falls vacant, move in to occupy as a residence, sell it and then claim three years' worth of relief (i.e. the final eighteen months plus letting relief). Under the new rules in this scenario they get no letting relief and thus only nine months' worth relief as the final period.
- 3.3 Arguably Lettings Relief has been generous with the intention to encourage home owners to make use of their property if they were unable to sell immediately. If the current slow housing market continues there may be more vacant housing available with home owners reluctant to enter into a rental agreement knowing that they risk additional exposure to CGT.
- 3.4 The above changes are the key targets of the Consultation and are intended to come into effect for disposals on or after 6 April 2020.
4. **Married Persons and Civil Partners: Transfers**
- 4.1 The government is also considering changing the rules on inter-spouse transfers as part of the Consultation.
- 4.2 The basic rule for CGT is that transfers of assets between married persons and civil partners ("**spouses**") take place at no-gain/no-loss. In this way where one spouse makes a transfer of their only or main residence to the other, the receiving spouse's period of ownership of the dwelling is the same as that of the transferring spouse, even if that period started before marriage. So in short a receiving spouse can rely on any period where the residence was occupied as a main residence by their spouse as their own.
- 4.3 Proposals being considered are such that the receiving spouse would always inherit the transferring spouse's period of ownership and the use to which the property was put during that time. This would, for example, prevent a person claiming full PPR on the disposal of a house that their spouse had previously owned and let out. Under current rules, PPR Relief can usually be claimed for the whole gain, resulting in no CGT being due, even where the property was previously let out and was not used as a main residence. This is deemed unfair by HMRC.
- 4.4 The Consultation is open for eight weeks until 1 June 2019 and the government is intending to publish its response and draft legislation in summer 2019, although there are unlikely to be any significant changes to these policy proposals.

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