

HAVE YOU SOLD A UK RESIDENTIAL PROPERTY?



New rules regarding Capital Gains Tax (CGT) for the disposal of residential properties were introduced on 6 April 2020. The changes apply to the reporting and payment of CGT for individuals and trusts, when they dispose of a residential property realising a gain in excess of their CGT Annual Exemption (currently £12,300 reducing to £6,150 for the 2023/24 tax year and to £3,000 from 2024/25 onwards). The new rules do not apply to companies.

Previously taxpayers reported the disposal of a residential property on their annual self-assessment tax return and paid the CGT liability due, by the 31 January following the tax year of the disposal.

For residential property disposals after 27 October 2021, taxpayers now have 60 days to report and pay the CGT due to HM Revenue and Customs (HMRC).

A “Residential Property Return” should be submitted to HMRC to report the capital gain and the CGT is to be paid within 60 days following the completion of the sale. Where properties are held in joint names or in a partnership, each individual owner will be required to submit a Residential Property Return. Please note the excepted cases below.

Self-Assessment Tax Return

For those within self-assessment, the property disposal will also need to be reported on their self-assessment tax return. Where an individual is not already within self-assessment, they will need to register to report their capital gain. Where a gain is covered by their CGT Annual Exemption, individuals may still need to register for self-assessment if the proceeds of the sale are in excess of £49,200 (2022/23) increasing to £50,000 for 2023/24 onwards.

The reduction in the Annual Exemption mentioned above, will require more individuals to register to prepare and submit a self-assessment tax return. For example, if a residential property is disposed at £40,000 with a capital gain arising of £7,000, the gain is covered by the Annual Exemption in 2022/23 and is below the proceed threshold so a Residential Property Return or self-assessment filing is not required.

However, in the 2023/24 tax year despite that the proceeds would still be below the threshold the Annual Exemption is not sufficient to cover the capital gain and a CGT payment may be due. Therefore, both the Residential Property Return and registration for self-assessment are required.

Who is likely to be affected?

Those most likely to be affected by the rules will be:

- Buy to Let Landlords.
- Owners of second homes/holiday homes.
- Owners of multiple occupancy residential properties which are available to rent.

Exceptions to the new rules

There are some exceptions to when a Residential Property Return will be required:

- Where the property has been the owner's main residence and the capital gain is covered by Principle Private Residence Relief (PPRR) throughout the period of ownership.
- If losses arise on the disposal of the property.
- If the gain will be sheltered by other available capital losses crystallised before the disposal has taken place.
- The gain on the disposal is covered completely by the individual's CGT Annual Exemption.

Deadline dates for submitting and paying HMRC

The deadline for submitting the Residential Property Return and making the CGT payment is now 60 days from the completion date of the sale i.e., when the legal title of the asset is transferred to the new owner.

UK Property Services Portal

HMRC now have a digital service, through which the return should be submitted.

Individuals must register for a HMRC online services account and submit their return and pay the CGT liability through the UK Property Services Portal.

Agents can report on behalf of their clients, via the HMRC Agent Services Account.

Where a return has not been filed within the deadline, and the relevant self-assessment tax return has been submitted reflecting the capital disposal, this does NOT exempt the taxpayer from having to file the 60-day CGT return. Interest and penalties (see below) will be incurred from the original filing date until the Residential Property Return is filed.



Estimates

HMRC will accept estimates when completing the form. These figures can then be amended by resubmitting the return or via your self-assessment tax return. HMRC advised not to delay in reporting as penalties will be issued for late submissions.

Penalties

Penalties will be imposed by HMRC for submitting the Residential Property Return late. If a return is submitted late:

- Automatic late filing penalty of £100 if up to 6 months late
- If more than 6 months late, a further penalty equal to the higher of £300 or 5% of the tax due to be payable
- If more than 12 months late, a further penalty equal to the higher of £300 or 5% of the tax due to be payable
- £10 daily penalties may also be levied for up to 90 days i.e., between 3 months and 6 months of the filing date

Late payment penalties and interest will also be imposed.

For further guidance and support contact our tax team on 028 8775 2990.

Key Contacts



Catherine Martin

Tax Partner

Catherine.Martin@CavanaghKelly.com



Deirdre Mullan

Senior Tax Associate

Deirdre.Mullan@CavanaghKelly.com



Paula Gallagher

Senior Tax Associate

Paula.Gallagher@CavanaghKelly.com