Selling your property? 60-day capital capital gains tax (CGT) reporting residential property disposals

Where a UK resident has a chargeable gain on the disposal* of a UK residential property, the gain must be reported to HMRC and a payment made on account of the associated tax liability within 60 days from completion of the disposal.

Late filing penalties may be charged, together with interest on any unpaid tax, where the deadline is missed.

Who is affected by the 60-day CGT rules?

It is estimated that 85,000 people a year need to report the sale of UK land and property to HMRC within 60 days of completion.

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

When might the 60-day CGT rules apply?

The 60-day rules only apply to disposals of direct interests in residential property, for example the sale or gifting of a house. Disposals of indirect interests, such as shares in a company which holds UK residential property, by a UK resident are not caught.

Common examples where a 60-day return may be required include the disposal of:

- A property that the owner has never lived in, or has only lived in for part of their ownership period;
- Holiday homes; and
- Rental properties
- A property where garden and grounds exceed 0.5 hectare (approximately 1.23 acres)

Disposals that are outside the 60-day CGT rules

There is no 60-day reporting requirement for a UK resident where no tax arises on the disposal. This may be the case where:

- The disposal is a ‘no gain, no loss’ transfer between spouses or civil partners;
- Any gain arising on the disposal will be fully covered by exemptions, for example the annual exemption or main residence relief; or
- There is no gain on the sale. For example there is a loss or the gain on the disposal is covered by losses on other assets that arose before the sale of the property.

Selling your main residence

Taxpayers selling their only or main residence should not be caught by the 60-day rules, provided the property has been occupied by them as their only or main residence throughout their period of ownership.

If there is any doubt as to whether main residence relief would fully exempt the gain, then advice should be taken as soon as possible to check if there is a reporting requirement. Even with a 60-day time limit it can take some time to properly identify and investigate main residence relief.

Non-UK residents

The rules for non-UK residents are similar to the above but, crucially, non-residents are required to report all disposals of UK land, whether they realise a gain or not. This includes disposals of shares in so-called 'property-rich'** entities.

How PEM can help

The disposal of UK residential property requires tax advice either before or as soon as possible after the transaction has completed. The tax implications of a disposal may not be straightforward and penalties for late filing and late payment can quickly add up.

13,113 individuals were fined in the last six months of 2020 for failing to do so.

HMRC issued fines worth over £1.3m to those who had missed the filing deadline.

Registering with HMRC

HMRC have developed a digital service through which all reports should be made. To do this a Government Gateway account and a CGT online account are required before a 60-day CGT return can be filed.

These are initial steps that you need to take but PEM can assist in setting these up.

Preparing the return and tax computations

Once setup, PEM can assist you in considering any costs, allowances, tax reliefs and capital losses that may be available to you to help minimise your exposure to CGT. PEM can then assist you in calculating your CGT liability and complete the CGT return on your behalf.

The tax computation must be prepared as part of the 60-day reporting, to calculate the estimated tax due. The payment on account must then be made within 60 days of completion of the property disposal. HMRC will not issue a payment reference number to enable you to make the necessary tax payment until your CGT return has been submitted.

Although it is possible for submitted returns to be amended for inaccuracies, they cannot be adjusted to consider matters that occurred after the completion date of the disposal.

Tax return

A computation of the final tax position will normally be undertaken when preparing your self-assessment tax return. This will consider other factors (such as losses realised after the property disposal) that were not reflected in the original tax estimate.

The CGT paid is treated as a payment on account of the final self-assessment tax liability, and interest will be charged where the estimated tax payment is less than the actual CGT due.

Pricing

Our price for helping clients calculate CGT payments on account and meeting their 60-day reporting requirements are dependent on complexity but typically start from **£850** (plus VAT) for a simple return.

If you would like to know more about any of the points raised in this article or have another issue you would like to discuss, please contact Iain Dowling (idowling@pem.co.uk or 01223 949 840) or speak to your usual PEM adviser.

*disposal can include a sale, gift or transfer of a property.

**A company is UK property rich if 75% or more of the gross asset value of the company is UK land. If you sell shares in a UK property rich company in which you have an interest of 25% or more, you have made an indirect disposal.

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