

CAPITAL GAINS TAX – NEW PAYMENT DATES FOR BTL AND SECOND HOMES

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Where CGT is due, a disposal is normally reported to HMRC in a self-assessment tax return. Under self-assessment, any CGT must be paid by 31 January following the tax year of disposal.

The government has noted that (depending on the timing of the sale within a tax year) this allows residential property owners between 10 and 22 months after the sale of the property before the tax is due.

Concerned about the length of time before any CGT is paid, HMRC is planning to bring in new rules from April 2020 which will require individuals and trustees disposing of a residential property to make a payment on account of the CGT within 30 days of the completion of the sale. Sellers will have to calculate, report and pay the CGT that they believe is due within that window.

As an example, if an owner exchanged contracts for the sale of a house on 15 April 2019 and the sale completed on 15 May 2019, the existing rules would apply and mean that any CGT arising would be due on 31 January 2021. By contrast, under the proposed rules, an exchange of contracts on 15 April 2020 with completion on 15 May 2020 would mean that the CGT had to be paid by 14 June 2020 – over seven months earlier than if the property had been sold in the previous tax year and indeed before any CGT was due for the previous tax year.

The new rules will significantly reduce the amount of time that those selling residential property will have to calculate and pay their CGT bill. CGT computations can be complex and it can take time to establish all the necessary facts to make an accurate computation of the taxable gain. Sellers will, therefore, need to start gathering information and details of historic costs, or dates of occupation well in advance of the sale.

In year reporting can create complications as many individuals will not know what rate of tax will apply at the time of disposal. This is because the applicable tax rate for CGT depends on the individual's total income for the tax year which can only be estimated at the time of disposal.

Equally, individuals may make other disposals in the year liable to CGT which might affect the position. After making an 'in year' report, individuals will therefore need to review and revise the computation at the end of the tax year, either as part of their usual self-assessment procedures or via new 'end of year' reconciliation process. This will increase the compliance burden for taxpayers.

A particular area of concern is the treatment of capital losses. Under the current proposals, the taxpayer will only be able to take into account losses which are known about at the time of disposal. If they incur more capital losses later in the same tax year, then it is likely that the original payment on account of CGT will be found to be too large.

However, they will not be able to reclaim any overpayment until after the tax year has finished. This could leave the taxpayer out of pocket for some months. The only time that capital losses realised after the disposal of the property can be taken into account is if the taxpayer disposes of further residential property in the same tax year.

When similar 'in-year' reporting rules were introduced for non-residents disposing of UK residential property, many individuals only realised they should have reported their disposals earlier when they came to complete their self-assessment return after the end of the tax year.

At this stage professional bodies are all calling for a soft landing in respect of any penalties in the early years of the new rules and we wait to see if that is taken on-board.

ACCELERATING TAX PAYMENTS – A COMMON THEME

When tackled on the introduction of the new payment dates the government has been clear in saying it wants to accelerate tax payments in order to minimise possible loss to the Exchequer. The profession is asking for a wider debate on the timing of payment of tax, rather than payments on account being introduced in a piecemeal fashion over a number of different assets or income sources. A broader debate would require HMRC to identify clearly the specific areas of concern and the risks to tax collection and thereby enable identification of possible solutions.

People selling their only or main home should not be affected by the new rules provided that they are entitled to full private residence relief, which exempts them from having to pay CGT on the sale.