Tax changes concerning the disposal of residential property

Background

Currently, when property is sold or gifted, the administrative process includes:

- In the case of a sale, an exchange of contracts then completion which, ordinarily, is when money changes hands;
- A submission to the Land Registry to update the public register for the changes in legal owners; and
- The payment of Stamp Duty Land Tax, by the purchaser, within 30 days of completion.
- In the case of a gift, the transfer may be made by deed and/or a submission to the Land Registry. Ordinarily no Stamp Duty Land Tax is payable on a gift of property.
- Subject to the availability of tax reliefs, a sale or gift can trigger a Capital Gains Tax (CGT) liability, which is payable by the party disposing of the property and due no later than 31 January following the tax year in which exchange of contracts takes place. This can result in a significant delay in the payment of tax. For example, if contracts are exchanged on 6 April 2019, with completion shortly thereafter, any CGT payable will not be due for 22 months, until 31 January 2021.
- The capital gain itself is reported to HM Revenue & Customs via the party's annual Self Assessment Tax Return, the deadline for which is the same as the tax payment.

Changes to be introduced

Draft tax legislation, expected to receive Royal Assent in the next few months, will introduce the following:

- For all land and property transactions completed **after 1 March 2019**, the deadline for the payment of Stamp Duty Land Tax will be reduced from 30 days to 14 days;
- For any residential property disposed of worldwide, **after 6 April 2020,** a new CGT payment regime will be introduced and significantly accelerate the timing of any tax due.

The new regime will oblige the party disposing of the property to submit a Return and pay any anticipated CGT **within 30 days** of completion/ transfer. Penalties and interest will be charged on late submission or payment of the tax.

When calculating the initial CGT due, a reasonable estimate will be permitted, furthermore any tax relief and loss claims may be taken into account. Therefore it is possible for a Return not to be due if it is established no tax will be payable. Nevertheless, it will be very important that any planned disposals of residential property, be it by way of sale or gift, is considered with your usual Chavereys contact to ensure the reporting obligations are established and liabilities are met within the 30 day deadline.

The capital gain will still be disclosed on the annual Self Assessment Tax Return, as is the case now, with any further tax consequences considered at the time.

Please note this commentary does not cover the changes to reporting obligations and liabilities applicable for non-UK residents with effect from 6 April 2019.

Please contact your usual Chavereys contact if you have any specific questions on the above.

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