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Capital Gains Tax on UK Residential Property Disposals

From 6 April 2020, changes will be introduced to the reporting of taxable capital gains on UK residential property disposals by individuals, trustees and personal representatives.

Filing Requirements

UK residential property gains will no longer be reported solely via self assessment. The taxpayer must now submit a UK land return, and make a payment on account of Capital Gains Tax, within 30 days of completion.

It will not be necessary for a UK resident taxpayer to file a UK land return if no Capital Gains Tax is due, for example, where the gain is covered by Principal Private Residence relief, where the disposal takes place at 'no gain no loss' (usually on a transfer of the property between spouses), where the gain is within the Annual Exemption, or where the property is sold at a loss. Non-resident taxpayers must file a return irrespective of whether any tax is due.

If the taxpayer does not meet the other criteria for being within self assessment, then it will no longer be necessary to register for self assessment and instead the gain will only need to be reported on the UK land return.

If the taxpayer is already within self assessment, then residential property gains must also be reported via the self assessment Tax Return.

Where a property comprises both residential and non-residential parts, the gain must be apportioned on a just and reasonable basis; and only the residential proportion of the gain will be subject to the new regime.

Administration

There are still some uncertainties regarding how the new system will operate, as HMRC has not yet released the form of the return to be submitted, however the following are some points to note:

- HMRC will launch a new digital service through which all disposals must be reported.
- Agents will be able to submit the new form on behalf of clients, provided the client declares that the information contained therein is correct to the best of the taxpayer's knowledge.
- In order to be able to submit the form and pay the tax, it will be necessary for individuals to apply for a Capital Gains Tax reference number.

As is the case for self assessment, the responsibility for filing the return falls on the taxpayer, therefore penalties can be charged for late filing of the return, for submitting an inaccurate return and for late payment of the tax.

Interest will also be charged for late payment of the tax. This will include situations where tax has been underpaid where best estimates are made in the initial land return but subsequently it is necessary to amend the land return, or to correct the tax position via the self assessment Tax Return.

In view of the potential penalties and interest, it is crucial for taxpayers to communicate with their advisers at an early stage of the sale process.

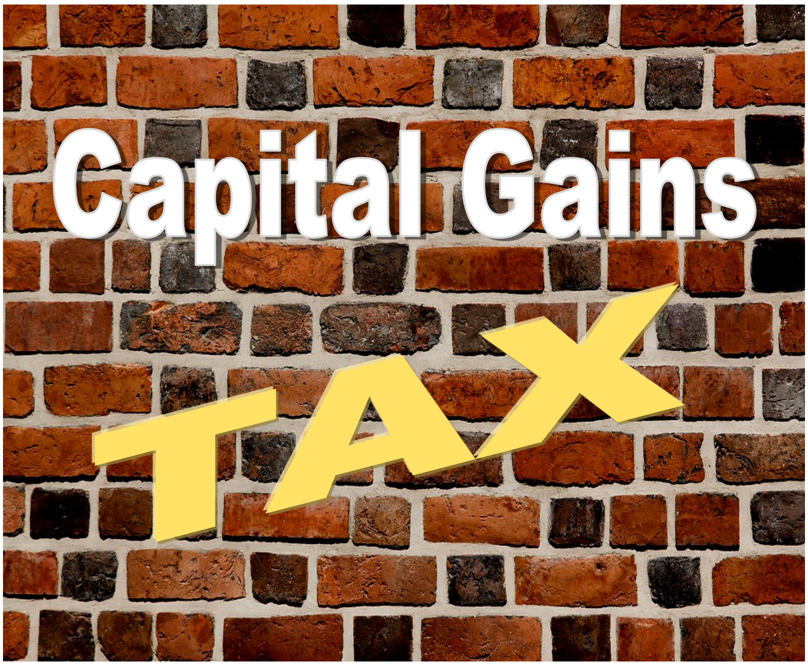
Calculation

The taxpayer must calculate the 'notional' Capital Gains Tax:

- Any anticipated sales must be ignored.
- The relevant rate of tax, 18%, 28%, or a combination, must be applied according to an estimate of annual income.
- Earlier gains on non-residential assets in the same tax year are ignored in calculating the notional Capital Gains Tax due.
- Where valuations are used, for example where the disposal is made by way of gift, the taxpayer may make a reasonable estimate if a professional valuation is not available at the time the return is due.
- Claims for relief may be included provided the conditions for the relief are met at the time the claim is made.

Losses

- Brought forward losses, whether residential or non-residential, may be offset against a UK residential property gain.
- If a residential property loss arises in the same tax year after a residential property gain which has already been reported on a land return, then it will be possible to file a subsequent return to reclaim the tax on the residential property gain.
- Losses arising on disposals in the same tax year of non-residential assets prior to a residential property gain may be offset against the residential property gain on the land return.
- However if a loss arises in the same tax year on a non-residential asset after the residential property gain then the tax cannot be reclaimed via a land return. Instead the taxpayer must wait until the self assessment Tax Return is filed before they can reclaim the tax.



Does this topic raise any questions in your mind?

Would you like further information on a particular subject?

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