Nunn Hayward LLP Factsheet:

Capital Gains Tax for non-residents: UK residential property

Introduction

From 5 April 2015, you need to tell HM Revenue & Customs (HMRC) if you have sold or disposed of a UK residential property after this date if you are a:

- non-resident individual
- personal representative of a non-resident who has died
- non-resident who is a partner in a partnership
- non-resident trustee
- non-resident company or fund
- UK resident meeting split year conditions and the disposal is made in the overseas part of the tax year

Deadline for reporting the disposal and payment of Taxes

You must tell HMRC within 30 days of conveyance, for example, no later than 31 July if you convey on 1 July. You must report the disposal online within this deadline even if:

- you have no tax to pay
- you have made a loss
- you are registered for Self Assessment
- you are registered with HMRC for Corporation Tax
- you send HMRC Annual Tax on Enveloped Dwellings (ATED) or ATED-related Capital Gains Tax returns

If a property was jointly owned, each owner must tell HMRC about their own gain or loss. Special rules apply if you gift a UK residential property to your spouse, your civil partner, or to charity.

You might also have to pay any non-resident Capital Gains Tax due within the same 30 day period. There are exceptions to the 30 day pay now rule if you already have an existing relationship with HMRC, for example, through Self Assessment. If you do, you can either:

- pay when you submit your 30 day return online; or
- defer payment until your normal due payment date

Penalties

You have 30 days from the date of conveyance to report your disposal and (subject to the exceptions above) pay any tax due. You will receive a penalty if you miss the reporting deadline and be charged interest if you do not make full payment on time.

The amount of penalty is the same as for a late Self Assessment tax return.

Reporting disposals

You must complete a separate return for each disposal and any amendments you make. When you report the disposal, you need to include a computation of your gain or loss with your return.

You do not need to do this if you are a fund or company claiming exemption from tax, or you have elected to defer payment.

If you choose to defer payment, the computation should be included with the relevant Self Assessment or ATED-related Capital Gains Tax return and payment made as part of your normal end of year payment.

What counts as residential property

You must tell HMRC and may have to pay Capital Gains Tax when you sell or dispose of:

- an interest in a UK residential property
- a property in the process of being constructed or adapted for use as a dwelling
- the right to acquire a UK residential property 'off plan'
- a UK residential property that is not your main home
- your main home if it is very large (grounds including building exceed 5,000 sq m) or you have:
    1. let it out
    2. used it for business
    3. had long periods of absence

If the property has had mixed use, it still counts as residential but you will be able to make a reasonable apportionment when calculating the gain or loss.

What is not residential property

Residential property does not include:

- care homes or nursing homes
- purpose built student accommodation
- building land, provided no residential building is under construction - this does not include disposals of rights to acquire UK residential property ‘off plan’
- hospitals or hospices
- military accommodation
- prisons

Student accommodation must meet certain conditions to qualify. The building must:

- have 15 bedrooms or more
- be purpose built for students
- be occupied by students for at least 165 days in the tax year for the purpose of undertaking a course of education

Next Steps

If you should have any queries please do not hesitate to contact our Tax Department who will be able to provide further assistance.

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