

Taxation of the main residence and Private Residence Relief (PRR)



Capital gains tax is not usually charged on the sale of your only or main home, but there are occasions where a tax liability may arise. The rules can be complex, but we are able to help you navigate them.

Private Residence Relief (PRR)

In most cases, a capital gain arising on the sale of your main home is exempt from capital gains tax (CGT) where the property has been your 'only or main residence' throughout your period of ownership. This tax relief is known as Private Residence Relief (PRR). For tax purposes, spouses or civil partners may only have one 'only or main residence' between them.

It should be noted that PRR extends to both freehold and leasehold interests in property situated in the UK and potentially abroad.

In all but the simplest of cases, it can be difficult to determine whether, and to what extent, a property qualifies for PRR. For example, a property may not qualify for full PRR in the following situations:

- The land attached to your home exceeds a certain area, or
- You sell part of your garden separately to your property, or
- You have numerous outbuildings, or
- Part of your house or the land attached to it has been used for business purposes, or
- You have not always occupied the property as your only or main residence.

Residences that have been rented out

Where you have previously rented out your main home, PRR is unlikely to exempt the whole gain on sale from CGT because it would not have been occupied as your only or main residence throughout your ownership. Furthermore,

following a tightening up of the rules from 6 April 2020, CGT lettings relief will only be available in circumstances where you co-occupied the property with your tenant.

Vacant periods

Strictly speaking, for PRR to apply to the disposal of your home, you need to have physically occupied the property as your only or main residence throughout your period of ownership. However, the tax rules recognise that there may be instances where you have no choice but to leave your home, perhaps because you have been asked to relocate within the UK or work abroad by your employer. As a result, there are also certain circumstances where a property is treated as an individual's residence for the purposes of PRR, even if they did not physically occupy it throughout.

In any of these circumstances, it is important to seek tax advice prior to any disposal in order to ensure that any potential tax implications are identified and dealt with appropriately.

We can assist in helping you to determine the amount of PRR that may be available when you sell a property.

Second homes

Where a taxpayer has more than one home, they have the right to nominate (by way of an election to HM Revenue and Customs) which is to be treated as their main residence. In the absence of an election, it is a question of fact as to which property was an individual's main residence at any given time, i.e. their main residence for tax purposes will be decided upon based on their actual occupation of the property in question.

A property can only be nominated as a taxpayer's main residence if:

- It is located in a country where a taxpayer is resident for tax purposes; or
- The taxpayer spends at least 90 midnights in the property in a tax year.

It should be noted that you cannot nominate a property that has never been used by you as a residence, so investment properties will not qualify for PRR. Once made, PRR elections can be varied between properties and as a result, there may be scope for some useful planning in this area to ensure that PRR is claimed in a beneficial manner.

We can assist in preparing these elections for you and varying them as appropriate.

Acceptable Tax Planning

We may provide tax planning services, tailored to a client's individual circumstances, for the purpose of mitigating their UK tax exposure through the use of effective and reliable methods, acceptable to HM Revenue & Customs, in a non-aggressive manner.

We provide advice about UK direct personal taxes only (income tax, national insurance [NIC], capital gains tax [CGT] and inheritance tax [IHT]).

We do not:

- provide tax advice associated with UK indirect taxes (such as value added tax [VAT], customs duties, stamp duty land [SDLT] tax or stamp duty reserve tax [SDRT])
- provide UK corporation tax advice
- provide tax advice relating to any overseas tax jurisdictions
- design, promote, or condone structures or arrangements which exploit tax legislation artificially in order to obtain a tax advantage.

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