Adams & Remers

A&R Guide

Guide to changes to Capital Gains Tax "Private Residence Relief" for property owners

Capital Gains Tax (CGT) is, as it says on the tin, a taxable charge on a gain. It seems a little unfair to charge CGT when you have made some money on the sale of your home and so Private Residence Relief (PRR) exists to exclude this gain from a taxable charge.

To benefit from the relief you must have been using the property as your only home or your main residence at some time during your ownership. The last three years of ownership always qualifies for the relief and this is known as the 'final period exemption'. You can still benefit from the relief even if the property is no longer your main residence (for example you have let it out): you are treated as if you lived at the property during the 36 month period, even if you didn't (although this doesn't apply if hold-over relief has been claimed previously).

The Government announced in their Autumn Statement that the period of exemption will be halved to 18 months as of 6 April 2014.

Will this affect you?

If you are no longer living in a property which had previously been your main residence and are proposing to sell it at a profit compared to its value when you acquired it, the change could affect you.

If you are in the process of selling your home, you will benefit from the 36-month exemption if you exchange contracts prior to 6 April 2014 and complete prior to 6 April 2015. If you exchange contracts after this date, regardless of the completion date, the 18-month exemption period will apply to you.
So if, by the time you exchange contacts on a sale, you have not been using the property as your main residence for more than the last 18 months, the excess over the 18 months will be subject to CGT.

For example,

Jude bought his house and lived there as his main residence in March 2010 and moved out in March 2011 to live with his girlfriend.

He plans to exchange contracts for sale on 1 March 2014 and will complete on 1 July 2014.
He will benefit from the 36-month exemption, so the whole period of his occupation of the property as his main residence and the period from March 2011 to March 2014 will be exempt from CGT.

The purchaser now says that he may not be ready to exchange contracts till mid April. In that case Jude will only benefit from 18 months' PPR relief and the other 18 months of his ownership will be chargeable. CGT will be calculated on the basis of 18/48 (48 months being the total period of ownership) or 37.5% of the total gain.

The Government recognises that this may cause hardship when a disposal (sale) has been made by a disabled person or an individual (or by their spouse or civil partner) who has been resident in a care home for at least three months. In these circumstances the 36-month exemption continues to apply.

For couples who are separated, where one or both partners have not been occupying the family home up to the point of the sale, the share of the property which belongs to the person no longer living there will benefit from only 18 months under the new rules and not 36 months relief when the property is sold. The current 36-month exemption provides considerable relief from CGT, particularly where a marital home has been retained and let for example.

So what can one do?

If this is likely to affect you then the first thing to do is to take advice on what the difference in the CGT liability is likely to be if the property were disposed of before 6th April 2014 and after that date. We would be happy to calculate this for you.

If there is a significant difference in the tax payable, it is possible to dispose of the property into an appropriately worded trust which will crystallise the gain before 6 April and enable you to benefit from the full 36-month relief.

It is important to remember that CGT can also be chargeable on the gift of a property and the disposal of a property out of a trust, so if you are dealing with a property in any capacity which has not been occupied as your private main residence up to the time you dispose of it, it is worth taking advice now about how the new rules might affect you. After 6 April, it may be too late to avoid paying more tax than you should!

Adams & Remers Private Client Team

This article is not intended to be a full summary of the law and advice should be sought on all issues.

Adams & Remers

Lewes

Trinity House, School Hill,
Lewes, Sussex BN7 2NN

Tel +44 (0)1273 480616
Fax +44 (0)1273 480618
DX 3100 Lewes1
Email **lewes@adamsandremers.com**

London

Commonwealth House,
55-58 Pall Mall, London, SW1Y 5JH

Tel +44 (0)20 7024 3600
Fax +44 (0)20 7839 5244
DX 140545 Piccadilly 5
Email **london@adamsandremers.com**

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