



Capital Gains Tax changes

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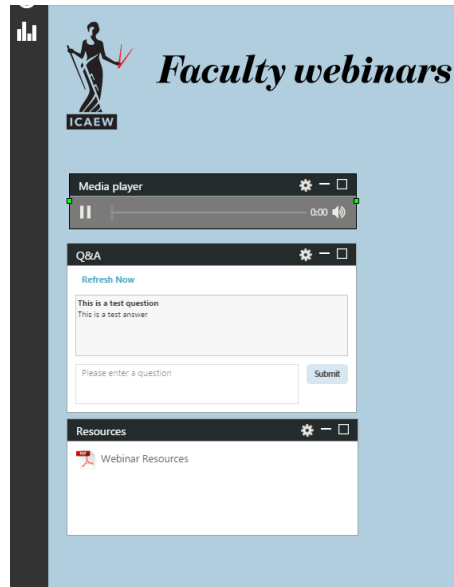
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Capital gains tax changes

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Capital gains tax changes effective from 6 April 2020

- Private residence relief (PRR) reduction of final period of exemption
- Changes to PRR lettings relief
- Enactment of extra-statutory concession D49
- Change to inter-spouse or civil partner transfer rules
- 30 day reporting for disposals of UK residential property by UK residents

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Reduction in final period of exemption

- Final period of exemption was originally for 12 months, then increased to two and then three years, then reduced in 2014 to 18 months.
- For disposals where the exchange of contracts is after 5 April 2020 the final period will further reduce to 9 months.
- Disposals by individuals who are disabled or long-term residents in a care home, or their spouses or civil partners, will retain their 36 month final period exemption.

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Changes to lettings relief

- Lettings relief previously relieved a gain that would have been chargeable because a home that did qualify for PRR was let out at any time during the individual's ownership up to the lower of:
 - the part of the gain that is otherwise relieved (final period of ownership and certain other absences); and
 - £40,000.
- This will only apply for disposals from 6 April 2020 where the home remains the individual's only or main residence during the period of letting.

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Other changes

- Extra-statutory concession D49 is to be enacted. A period of non-occupation of up to 24 months after the acquisition will count as occupation if the property is renovated, rebuilt, redecorated or altered; or if the individual is continuing to occupy their previous main residence until it is disposed of.
- Extra-statutory concession D21 will also be enacted. The two year time limit for nominating which of an individual's residences is their main residence will be removed where no previous nomination has been made, and during the relevant period has not held an interest of more than negligible value in one of the properties.
- Where a spouse or civil partner's period of ownership is extended to include a period of ownership of the other person, the recipient individual need not have occupied the property as their only or main during that extended period.

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30 day returns and payments on account

- A new system for disposals by UK residents of UK residential property, and for non-UK residents of all UK property. Applies to individuals, trusts, personal representatives (including partners of partnerships/LLPs and joint owners making disposals), but not to charities, pension schemes or companies, or on no gain-no loss disposals.
- New stand-alone “CGT on UK property service”, to be used for disposals where the unconditional contract is made after 5 April 2020. Contracts made before that date will not be affected whatever their completion date.
- CGT paid using the new service will be allowed as a credit against tax payable under self-assessment.
- For UK residents where gains arise, and for non-UK residents on all disposals, a return will be required and the tax paid within 30 days of *completion* of a sale. So for example a sale completed on 5 May 2020 will have to be reported by 5 June 2020.

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30 day CGT calculation

- The payment on account is the CGT notionally chargeable on the disposal as at the filing date i.e. 30 days after completion.
- The notional charge takes into account:
 - Capital losses brought forward from previous tax years;
 - Current year capital losses arising on disposals (normal CGT rules) up to the filing date;
 - But not current year capital gains on non-residential disposals;
 - Assumes the availability of the annual exemption, if it has not been used against a previous UK residential property disposal;
 - Requires an estimate of income (to determine which rate of CGT will apply).

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Repayments

- Returns made under the CGT on UK property service can be amended up to 12 months after the filing date (if not in self-assessment) or once the self-assessment return is filed, or the self-assessment filing date has passed otherwise. The legislation envisages that estimates may be required and repayments of the on account payment can be claimed.
- If another UK residential property is sold on which a capital loss arises, a further return can (optionally) be made and the loss set against the earlier gain and a repayment reclaimed.
- Losses on disposals of assets that are not UK residential property arising after the first gain cannot be taken into account at this stage.
- If a self-assessment return is filed, all gains and losses, whether reported under the CGT on UK property service or otherwise should be included. The overall CGT liability for the year will then be correctly calculated and any CGT paid on account credited.

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CGT CHANGES

AGENDA

- The CGT on UK property service
- Information required to report disposal
- Other points re CGT on UK property service
- Penalties
- Points to takeaway

THE CGT ON UK PROPERTY SERVICE

- A new system that has been developed to report disposals under the 30 day reporting and payment regime.
- Those under current NRCGT regime will need to file under new service (direct and indirect disposals).
- Requires a 'digital handshake' where an agent is acting.
- All users will require a Government Gateway account to be able to use the service.
- Short reporting deadline means need to act quickly.
- Does not apply to those who are digitally excluded – same definition as to MTDfV. Narrowly defined as:
 - Practising members of a religious society or order whose beliefs are incompatible with the use of electronic communications, and
 - People for whom online filing is not reasonably practicable for reasons of disability, age, remoteness of location, or any other reason.

SETTING UP A CGT ACCOUNT AND THE DIGITAL HANDSHAKE

- Those needing to report a disposal and pay CGT will need to set up a CGT account.
- If they already have a Government Gateway account, will need the user ID and password.
- If not, a Government Gateway account will be set up as part of the process.
- If lost, needs to be retrieved but where there are time constraints can set up another Government Gateway account.
- Agents will need the client's CGT account reference number to commence the digital handshake.
- The client will then need to access their CGT account to verify the agent.

INFORMATION REQUIRED TO REPORT VIA CGT ON UK PROPERTY SERVICE

- Property address and postcode
- Date property acquired and cost of acquisition
- Date contracts exchanged
- Completion date and disposal proceeds
- Enhancement expenditure
- Also, consider entitlement to reliefs, allowances and exemptions

OTHER POINTS RE CGT ON UK PROPERTY SERVICE

- Where two or more disposals of UK land have the same completion date, all disposals must be reported on same UK land return.
- A UK land return is not required if included on SA return before the filing date of the UK land return (eg 5 April 2021 exchange date, 10 July 2021 completion date. SA return filed on 30 June 2021).
- The UK land return must include a declaration by taxpayer that return is, to the best of their knowledge, complete and correct.
- Computations can be attached to the UK land return – good practice where complex disposal (eg mixed use).
- Joint owners and partners need to file separately.
 - practicalities in determining split of partnership gains.

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PENALTIES FOR LATE FILING

- Same as those for self-assessment, with the exception that £10 daily late filing penalties - HMRC has stated that it will not usually charge.
- Late filing will incur (Sch 55, FA2009):
 - Initial penalty: £100.
 - Further penalty if return six months late: 5% of CGT or £300, whichever is higher.
 - Further penalty if return twelve months late: 5% of CGT or £300, whichever is higher.
 - Example:

Henry sold a UK property (used personally as a holiday home) on which a CGT liability of £7,500 is due. Exchange and completion took place on 30 May 2020. He is not otherwise required to file an SA return. Henry files the UK land return on 5 June 2021. The late filing would attract penalties as follows:

 - Initial penalty £100, six months late £375 (5% of £7,500), twelve months late £375.
- 30 days from date of penalty assessment to appeal.

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PENALTIES FOR LATE PAYMENT

- Same as those for self-assessment.
- Late payment will incur a penalty of (Sch 56, FA2009):
 - 5% of the unpaid CGT if not paid within 30 days of 31 January following the tax year in which the disposal occurs.
 - Further penalty of 5% of the unpaid CGT if not paid within five months of the above penalty.
 - Further penalty of 5% of the unpaid CGT if not paid within eleven months of the first penalty.
 - Example:
 - Facts as previous slide. Payment made on 5 June 2021 when UK land return is filed. Tax year of disposal is 2020/21. No late payment penalty as CGT settled prior to 31 January 2022.
- 30 days from date issue of penalty to appeal.
- Interest will be charged on late payments at HMRC's official rate of interest (currently 3.25%).

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POINTS TO TAKEAWAY

- Vital to raise client awareness of the changes (and to continue to communicate), to avoid the imposition of penalties due to accidental defaults.
- If clients fail to tell their about relevant transactions, late filing and late payment penalties will be incurred and, if their agent has not forewarned them of these changes, client's may blame the agent.
- Short time in which to set up clients on agent service. Belt and braces – register all clients?
- Per HMRC, they are communicating the change. Therefore not expected to be any leniency in penalties charged.

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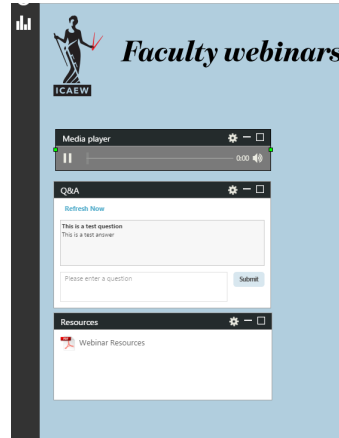
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 - 11 May 2020 – Employment taxes update

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