

## PPR Relief topical issues (Lecture P1429 – 19.45 minutes)

Recent developments concerning public figures tax affairs and, in particular, questions regarding whether CGT is due on the sale of their property come up fairly regularly. This came up during the expenses scandal in 2009 and it is making the papers once again.

Although PPR has been a feature of UK tax legislation for at least six decades, the subjective nature of the qualifications for, in particular, what constitutes a period of ownership and also what constitutes residence, comes up almost every month in tax cases. There are also issues regarding the extent of qualifying grounds (minimum half a hectare), this element is beyond the scope of this article.

The main provisions of PPR are found in section 222 TCGA 1992 and have changed relatively little since the inception of the relief in the 1960s. What has changed is the volatility of the property market which has meant that relatively short periods of ownership can result in substantial gains. The other element of change is the relative fluidity of relationships which create additional challenges in this area.

The main rule is that one can only have one PPR. This is the place that one occupies as an only or main residence, if one occupies two properties as a residence, say one at the weekend and one during the week, one has the ability to choose which one counts as the PPR.

It is not necessarily the property which has shown the greatest gain which one would elect for. The first and most important question is which property one is more likely to sell. To take this principle further; PPR is wasted if one dies in one's main residence as the uplift to probate value would extinguish the capital gain (although there may be some IHT consequences).

The other element to note is that a married couple can only have one PPR between them. This also applied to couples in civil partnerships but not to unmarried couples. So, before the wedding/civil partnership ceremony, couples should discuss that if they are going to retain two properties and use both as their residences, which one it would be beneficial to designate as their PPR. An election should therefore be made to HMRC. If an election is not made, then one looks at which residence one preponderately live at. This includes factors such as both the quantity and quality of residence.

When a couple separate, then they are once again able to have two principal residences on that basis. Although in the *Oliver* case, the courts looked very suspiciously at a couple who separated and reunited within days of the second property being resold.

It is possible to have periods of absence, and claim it as deemed occupation. This includes potentially the first two years after the property is bought to cover difficulties with selling old property and extended building works.

It is also possible a three-year period of absence for any reason if there is real occupation before and after the deemed occupation. It is also possible to have employment related absences of up to 4 years if transferred elsewhere in the UK and indefinite when transferred abroad. In these cases, if it is impractical to reoccupy the property then that clause can be relaxed. In addition, the self-employed are able to claim up to 4 years deemed occupation if their self-employment takes them elsewhere.

There have been a number of changes to PPR, notably the final period of deemed occupation which is allowed if the property has at any time been your only or main residence has been reduced from 36 months to 9 months. 36 months is still allowed when the taxpayer is entering a care home.

PPR remains the second most expensive tax relief that HMRC gives after pensions. So, there have always been significant issues surrounding PPR. These issues may get greater as the CGT annual exemption has reduced from £12,300 in 2022/23 to £3,000 in 2024/25. The courts have provided substantial guidance in this area so has HMRC and it is worth both taxpayers and their advisers refreshing their knowledge before disposing of properties.

*Contributed by Jeremy Mindell*