

Payment window for residential property

(Lecture P1110 – 10.01 minutes)

As part of the standard self-assessment process, UK-resident taxpayers have to pay CGT due on gains realised on the sale of chargeable assets. This takes place between 10 and 22 months after the making of the disposal.

In 2015, the Government announced that they would introduce, with effect from 6 April 2019, a requirement that CGT on gains from the sale or other disposal of residential property should become payable within 30 days of the disposal transaction being completed. This will be treated as a payment on account towards the person's liability for the tax year in which the disposal is made.

However, on 22 November 2017, the Chancellor announced that the introduction of this new regime would be deferred to 6 April 2020. A consultation entitled 'Capital Gains Tax: Payment Window For Residential Property Gains (Payment On Account)' was conducted between 11 April 2018 and 6 June 2018. This sought views on the details of the proposed scheme for UK residents and on changes to a similar arrangement for some non-UK residents. Respondents to the consultation document were mainly concerned about two matters:

- the practicability of making accurate calculations within the 30-day window; and
- the treatment of allowable losses.

On 6 July 2018, a draft Finance Bill was published. This contains a new Schedule (Sch 2) which sets out the circumstances when a return of a residential property disposal must be delivered to HMRC and deals with the calculation of the amount payable on account of the disponent's liability to CGT for the tax year in which the disposal takes place.

The general rule is that a return must be delivered to HMRC within 30 days following the day on which completion takes place. A payment on account of the tax liability should be made at the same time. This self-assessed calculation of the payment due can take into consideration unused losses and the person's annual CGT exemption. The rate of tax for individuals (18% or 28%) is determined after making a reasonable estimate of that person's taxable income for the year.

For disposals involving UK residents, the new reporting and payment legislation will not apply where the gain on the disposal (or the total gain where more than one disposal is made in the tax year) is not chargeable to CGT because:

- the gain is sheltered by principal private residence relief, an allowable loss or the annual CGT exemption;
- the gain arises from the disposal of a foreign residential property which is situated in a country covered by a CGT double taxation agreement; or
- the remittance basis is in point.

In their response to the consultation document, the Tax Faculty made the following comment:

‘Taxpayers may well incur additional compliance costs as they will be required to submit a provisional tax computation within 30 days of completion, with a second computation being required when . . . further costs or information have come to light or subsequent capital events have occurred necessitating a revised computation and then the final report on the self-assessment. As an alternative to a computation of the gain, a system similar to that in other countries – where a fixed percentage of the sale proceeds (is) paid over on account of the CGT with a repayment/additional payment being made once the detailed computation has been submitted – could be an elective option for taxpayers.’

Sadly, this sensible suggestion seems unlikely to be adopted by the Government.

Contributed by Robert Jamieson