

Difficulties with UK property returns (Lecture P1347 – 14.04 minutes)

Recent CGT statistics show that some 137,000 UK property returns were submitted in respect of disposals in 2021/22 and it is estimated that approximately 26,500 of these were filed late (i.e. 19.3% of the total). The position for 2020/21 was even worse, but there were perhaps two reasons for this:

1. The FA 2019 legislation, which introduced the shorter deadline for UK property returns, only took effect from the start of 2020/21. Given that HMRC initially provided minimum publicity and very little detailed guidance about what was then the new CGT reporting system, it was hardly surprising that so many people were unaware of these rules in their first year of operation. 28.1% of that year's returns were filed late.
2. The start of the COVID-19 pandemic which had reached the UK in March 2020 and was the main cause for the lower volume of property disposals in 2020/21.

One of the important side-effects of the FA 2019 30-day time limit, which was increased to 60 days from 27 October 2021 by virtue of FA 2022, is that the system doubled the reporting effort required by the taxpayer and their adviser and doubled the risk of a late filing penalty. Since the UK property reporting service is not connected to the Self Assessment regime, virtually all taxpayers must report the same gain twice: firstly, on the UK property return and secondly, on the individual's normal self-assessment tax return. Only in the rare circumstance when a UK property deal completes towards the end of the tax year and the self-assessment tax return is submitted within 60 days (as it now is) of the completion date, will the taxpayer be able to sidestep the obligation to file a UK property return.

An annoying feature of the legislation is that, where taxpayers report their gains in the wrong order, i.e. on their self-assessment tax return first, they will still be saddled with penalties for submitting a late UK property return. The penalties due for a late UK property return are imposed on the same basis as apply for a late self-assessment tax return. HMRC are currently chasing up those individuals who failed to file a UK property return within the 30-day deadline for 2020/21 and are demanding that they file a paper version of the return (known as PPDCGT) to stop late filing penalties from accruing further. This paper form cannot be downloaded from HMRC's website – it can only be obtained by telephoning HMRC to request a copy.

Because the late filing property penalties for 2020/21 were not issued as promptly as they should have been, the sums involved are substantial and it is anticipated that many taxpayers will be appealing against their imposition. The problem should not be as serious for 2021/22.

Technical guidance on the details of the UK property account, which first appeared in late 2021, can be found in Appendix 18 at the back of HMRC's Capital Gains Manual.

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