



HM Revenue
& Customs

Capital Gains Tax: Payment window for residential property gains (payment on account)

Consultation document

Publication date: 11 April 2018

Closing date for comments: 6 June 2018

Subject of this consultation:	Introduction of a requirement to pay any capital gains tax due on the disposal of residential property within 30 days of the completion of the disposal (a payment on account of CGT).
Scope of this consultation:	This is a technical consultation on the proposed payment on account scheme explained in this document.
Who should read this:	This consultation will be of interest to individuals and trustees where chargeable gains will accrue on the disposal of residential property, such as a second home or a rental property, as well as their advisors and agents.
Duration:	This consultation runs for 8 weeks from 11 April 2018 to 6 June 2018.
Lead official:	Alan McGuinness, HM Revenue & Customs
How to respond or enquire about this consultation:	Responses, requests for hard copies, and general queries about the content or scope of the consultation can be sent by email to: AsRes.Consult@hmrc.gsi.gov.uk , or by post to: Alan McGuinness CGT Payment on Account Consultation HM Revenue & Customs Room G49 100 Parliament Street London, SW1A 2BQ.
Additional ways to be involved:	Please contact the lead official if you are interested in meeting to discuss this paper.
After the consultation:	The government will publish its response in summer 2018 along with draft legislation. Legislation will be introduced in the 2018 to 2019 Finance Bill, to take effect from April 2020.
Getting to this stage:	Capital gains tax is currently accounted for and paid by UK residents as part of the self-assessment cycle. The design being consulted on draws on an existing payment on account system for non-residents disposing of UK residential property.
Previous engagement:	This is the first consultation on this subject.

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1. Executive summary

1.1 Capital gains tax (CGT) is normally accounted for and paid as part of the annual self-assessment cycle.

1.2 From April 2020, a payment on account of CGT will need to be made when a residential property is sold or otherwise disposed of (e.g. by giving it away). The payment will be credited against the person's income tax and capital gains tax liability for the tax year.

1.3 Payment will be due within 30 days of the completion of the disposal. A special payment on account return confirming the disposal and the amount payable will also need to be sent to HMRC at the same time.

1.4 The changes will mainly affect those disposing of a second home or rental property. They will not apply where the gains are not chargeable to CGT (for example where the gains are covered by private residence relief).

1.5 The existing CGT payment on account system for non-residents disposing of UK residential property will be extended from April 2020 so that a payment will be due where a person also makes self-assessment returns to HMRC.

1.6 This is a technical consultation on the proposals outlined in this document.

2. Introduction

Background

2.1 UK residents currently pay any capital gains tax (CGT) due on gains realised on the sale of residential property between 10 and 22 months after the sale is made.

2.2 In 2015 the government announced that it will introduce from April 2019 a requirement that CGT due on gains from selling residential property be paid within 30 days of the sale being completed.¹ This will be a 'payment on account' towards the person's tax liability for the relevant tax year in which the disposal is made.

2.3 In 2017 the government made a further announcement that the introduction will be deferred until April 2020.²

About this consultation

2.4 This is a technical consultation.

2.5 Chapter 3 of this consultation outlines the government's proposed CGT payment on account scheme for UK residents and seeks views on the detail of the proposal.

2.6 Chapter 4 outlines changes to an existing CGT payment on account scheme that applies to non-UK residents and seeks views on the detail of the proposal.

2.7 Chapter 5 contains a draft assessment of impacts and seeks comments.

¹ Spending Review and Autumn Statement 2015: paragraphs 1.290 and 3.76.

² Autumn Budget: paragraph 3.19.

3. How the rules will work for UK residents

Overview

3.1 From April 2020, a payment on account of CGT may be due to be paid to HMRC when residential property is sold or otherwise disposed of (e.g. by giving it away).

3.2 Where an amount is payable on account, the payment will need to be made to HMRC within 30 days of the completion of the disposal. The date of 'completion' is normally the day when the property conveyance takes place, rather than the day when contracts are exchanged. See also paragraphs 3.7 and 3.15 below.

3.3 A special payment on account return confirming the disposal and the amount payable will also need to be sent to HMRC at the same time. No return will be required where no amount is payable on account (for example because the gains on disposal are covered by private residence relief). See also paragraph 3.10 below.

Residential property

3.4 The existing CGT definitions of residential property will be used. Broadly, an asset is residential property if it is:

- land (whether in the UK or outside the UK) that during the person's ownership has included a building that is suitable for use as a dwelling, or been in the process of being built or converted for such use;
- a contract for purchasing a dwelling 'off-plan' from a developer; or
- an option binding a person to sell either of the above.

3.5 Certain types of accommodation, such as care homes and purpose built student accommodation, are not classed as dwellings and so a payment on account is not required when they are disposed of.

Overseas residential property

3.6 A payment on account will need to be calculated when an overseas residential property is disposed of by a UK resident unless it is expected that:

- the gains on the disposal will also be taxed in another country and an amount of double taxation relief will be available against some or all of the UK CGT that would otherwise be due in relation to those gains, or
- the gains will be taxed on the remittance basis.

Working out the amount payable on account

3.7 Following the disposal of a residential property it will be necessary to calculate whether an amount is due to be paid on account. This is to be done in a similar way

as for calculating the amount of CGT payable for the tax year in which the disposal is made³ but only events up to the time the disposal is completed are considered.

3.8 In calculating the gain:

- chargeable gains that have been realised on the disposal of other (non-residential property) assets are ignored,
- unused losses (either in relation to the disposal of residential property or other assets) are taken into account in the normal way, and
- available reliefs and the annual exempt amount are applied in the normal way.

Anticipated gains and losses on future disposals are not taken into account.

3.9 The amount of CGT that is payable on account is the amount after applying the applicable rate of tax to the above net gain. For residential property gains the rate is normally 18% or 28% or both⁴.

3.10 As a rule of thumb, no payment on account will be required (and no return will need to be made) where:

- the gain on the disposal is fully covered by private residence relief, or
- the disposal is either for no gain or a loss.

Mixed use property and changes in use

3.11 Where the property being disposed of is of mixed use (such as a building consisting of flats above a shop), the gain is apportioned between those parts relating to dwellings and the other parts. Payment on account only applies to that portion of the gain relating to the dwellings.

3.12 Similarly, where a property is converted or has a change in use, payment on account only applies to the portion of the gain that relates to use as or with a dwelling.

Subsequent residential property disposals in the same tax year

3.13 Where there is more than one residential property disposal in the same tax year, the calculation outlined at paragraphs 3.7 to 3.9 above will need to be made following the completion of each disposal except that:

- all of the gains (or losses) on those disposals are taken into consideration; and
- any new losses that have arisen on disposals of other assets can also be used.

3.14 If the resulting balance is higher than the amount previously paid, the difference becomes payable to HMRC. If the resultant amount is lower (for example because of

³ The tax year in which the disposal is made is normally the year in which the contract is entered into. Where a contract is conditional, the time when the disposal is made is the time when the condition is satisfied: see the Taxation of Chargeable Gains Act 1992, section 28.

⁴ The basic rate of CGT for residential property disposals is 18%. The 28% rate of CGT applies to individuals who are higher rate income tax payers, or whose gains exceed the unused part of their basic rate tax band. Further information can be found here: <https://www.gov.uk/capital-gains-tax/rates>. A 10% rate of CGT applies to certain disposals of furnished holiday accommodation that qualify for entrepreneurs' relief.

the effect of losses that were not available at the time of the earlier calculation), the difference becomes repayable along with repayment interest from HMRC.

Payments and payment on account returns

3.15 Where an amount of CGT is calculated as being payable on account, that amount is to be paid to HMRC within 30 days of the disposal being completed. The date of 'completion' is normally the day when the property is conveyed or transferred, rather than the day when contracts are exchanged. A special payment on account return confirming the disposal and the amount payable will also need to be sent to HMRC at the same time.

3.16 Sometimes the date of disposal and the date of completion or payment may fall within different tax years. For example an exchange of contracts (the normal disposal date for capital gains tax purposes) may occur on 1 March with completion on 1 May and payment on account being due by 31 May – here the disposal is in one tax year ending 5 April and the completion and payment is in the next. The making of the payment on account does not change the tax year in which the disposal is made and so also does not change the year to which the payment on account is credited.

Late payments and late payment on account returns

3.17 Interest will be charged on late payments and penalties will be charged on the late filing of the payment on account return in line with existing scales.

Corrections and adjustments

3.18 A person will be able to correct an amount paid or payable on account when they have failed to take into account information available at the time the payment on account calculation was made.

3.19 If the resulting amount is higher than the amount previously paid, the difference becomes payable to HMRC and interest may be due. If the amount is lower, the difference becomes repayable along with repayment interest from HMRC.

3.20 Paragraph 3.13 above explains that an adjustment to the amount payable on account will be made when subsequent disposals of residential property are made in relation to a tax year. This includes taking into account any new unused losses.

3.21 Outside of these circumstances, and in order to avoid undue complexities, adjustments will not be given for losses that arise on disposals that are not of residential property assets. Instead an adjustment will be made in the end of year reconciliation.

End of year reconciliations

3.22 Where a person is within self-assessment for the tax year of the disposal for reasons unconnected with the residential property disposal (for example because of taxable income received), the self-assessment return will need to be completed in the normal way including completion of the CGT pages to reflect the residential property

disposal. Amounts paid on account will be credited against the tax due for the year (that is, the total income tax and CGT due). The resulting balance becomes either payable to HMRC or repayable along with interest from HMRC, as the case may be.

3.23 The government is considering how best to avoid requiring a person to register for self-assessment where their only interaction with HMRC is in relation to the payment on account.

Offshore trusts and companies: attributed gains

3.24 Since 2015, offshore trusts and companies have been taxed directly on their post-2015 gains when they dispose of UK residential property.

3.25 Gains prior to 2015 may be attributed to other persons, such as the settlor or a beneficiary of a trust.⁵ There are no plans to seek payments on account in relation to such attributed gains.

ATED-related gains and NRCGT gains

3.26 Payment on account calculations will apply to all forms of gain, including ATED-related gains (gains on disposals where the Annual Tax on Enveloped Dwellings applied) and NRCGT gains (gains on UK residential property disposals by non-residents).

3.27 In practice ATED-related gains will only very rarely arise to individuals. They don't arise to trustees.

3.28 NRCGT gains will be relevant where a person disposes of a UK residential property and then migrates to the UK in the same year: the gains will then form part of the payment on account calculation on a subsequent residential property disposal for the year.

Questions

3.29 The government welcomes any comments on the proposed payment on account scheme for UK residents. In particular:

Question 1: Are there areas where the proposed scheme for UK residents could be improved to make it easier for taxpayers to comply?

Question 2: Does the proposed treatment of losses on disposals of residential property and disposals of other assets strike the right balance between simplicity and fairness? If not, what alternative approach would you propose?

In responding, it would be useful to receive estimates of numbers of people and amount of CGT potentially affected in any year and details of any one-off costs.

⁵ Taxation of Chargeable Gains Act 1992, sections 13, 86 and 87.

4. Changes to the rules for non-residents

Background

4.1 In 2015, the scope of UK CGT was extended to include disposals of UK residential property made by individuals and other entities resident outside of the UK.

4.2 The government was concerned at the time that the extension would bring a new population into the UK tax system about whom HMRC holds limited information and consulted on a means to achieve the extension in a way that was effective and sustainable. Following consultation⁶, a new reporting and 30-day payment on account system was introduced.

The payment on account system for non-residents

4.3 Under the payment on account system for non-residents:

- a return reporting the disposal is due within 30 days of completion of the disposal in most cases, irrespective of whether a payment on account is due;
- a payment on account is not required by those who are within self-assessment or pay ATED charges;
- where a payment on account is required, the return also includes details of the payment on account computation; and
- where a computation is required to be included with the return, the information provided is not required to be reported again on a self-assessment return.

4.4 In combination, a person who is not within self-assessment does not need to also register for self-assessment and file a self-assessment return. Instead, their CGT tax affairs are all dealt with via the return reporting the disposal.

4.5 Those who are within self-assessment currently account and pay CGT as part of their self-assessment return in the same way as for UK residents, as well as filing the return for the disposal.

Alignment with UK residents

4.6 From April 2020, a payment on account will need to be made on all residential property disposals in the same way as for UK residents and irrespective of whether the person makes self-assessment returns or pays ATED charges.

4.7 In the same way as for UK resident taxpayers, the government is considering how best to avoid requiring a person to register for self-assessment where their only interaction with HMRC is in relation to the payment on account.

Questions

⁶ Consultation: Implementing a capital gains tax charge on non-residents:
<https://www.gov.uk/government/consultations/implementing-a-capital-gains-tax-charge-on-non-residents>

4.8 The government welcomes any comments on the proposed changes to the payment on account scheme for non-residents. In particular:

Question 3: Are there areas where the scheme for non-residents could be improved to make it easier for taxpayers to comply?

In responding, it would be useful to receive estimates of numbers of people and amount of CGT potentially affected in any year and details of any one-off costs.

5. Assessment of impacts

Summary of impacts

5.1 The following is a provisional table of impacts in relation to the proposals for UK residents.

Exchequer impact (£m)	2019-20	2020-21	2021-22	2022-23	2023-24
	-£1,200	£950m	£235m	£10m	not scored
	£1,200	£310m	£100m	£100m	not scored
	<p>These figures are set out in Table 2.1 of Autumn Budget 2017 as “Capital Gains Tax payment window reduction: delay to April 2020” and Table 2.2 as “Capital Gains Tax: reduce payment window for residential property”. They have been certified by the Office for Budget Responsibility.</p> <p>The overall Exchequer impact is a summation of the two sets of figures presented above.</p>				
Economic impact	This measure is not expected to have a significant macro-economic impact.				
Impact on individuals and households	Individuals and households who dispose of a second home not covered by private residence relief will now be required to submit a return and make a payment on account to HMRC within 30 days of disposal. The measure is not expected to impact on family formation, stability or breakdown.				
Equalities impacts	<p>Older persons are expected to be impacted more than young persons as they are more likely to dispose of second homes or residential rental property.</p> <p>It is not anticipated that there will be impacts on other groups with protected characteristics.</p>				
Impact on businesses and civil society organisations	<p>This measure will impact on landlords chargeable to CGT on the sale of residential property (approximately 89% of all landlords are individuals, who own approximately 15% of the rental stock).</p> <p>One off costs include familiarisation with the new rules. On-going costs include making a payment on account and submitting a return within 30 days of disposal. Companies chargeable to corporation tax on gains are not affected.</p>				
Impact on HMRC or other public sector delivery organisations	Initial indications show there will be HMRC IT costs for these changes which are currently estimated at approximately £3m plus any associated resource implications. These costs may change depending on the final solution chosen for delivery.				
Other impacts	Other impacts have been considered and none have been identified.				

Questions

5.2 The government welcomes any comments on the provisional table of impacts.

Question 4: Do you have comments on the provisional table of impacts?

In responding, it would be useful to receive estimates of the impact envisaged.

6. Summary of consultation questions

Question 1: Are there areas where the proposed scheme for UK residents could be improved to make it easier for taxpayers to comply?

Question 2: Does the proposed treatment of losses on disposals of residential property and disposals of other assets strike the right balance between simplicity and fairness? If not, what alternative approach would you propose?

Question 3: Are there areas where the scheme for non-residents could be improved to make it easier for taxpayers to comply?

Question 4: Do you have comments on the provisional table of impacts?

7. The consultation process

This consultation is being conducted in line with the Tax Consultation Framework. There are 5 stages to tax policy development:

- Stage 1 Setting out objectives and identifying options.
- Stage 2 Determining the best option and developing a framework for implementation including detailed policy design.
- Stage 3 Drafting legislation to effect the proposed change.
- Stage 4 Implementing and monitoring the change.
- Stage 5 Reviewing and evaluating the change.

This consultation is taking place during stage 2 of the process. The purpose of the consultation is to seek views on the detailed policy design and a framework for implementation of a specific proposal, rather than to seek views on alternative proposals.

How to Respond

A summary of the questions in this consultation is included at chapter 6.

Responses should be sent by 6 June 2018 by e-mail to: AsRes.Consult@hmrc.gsi.gov.uk, or by post to:

Alan McGuinness
CGT Payment on Account Consultation
HM Revenue & Customs
Room G49
100 Parliament Street
London, SW1A 2BQ.

Telephone enquiries: 03000 585256 (from a text phone prefix this number with 18001)

Paper copies of this document or copies in Welsh and alternative formats (large print, audio and Braille) may be obtained free of charge from the above address. This document can also be accessed from [HMRC Inside Government](#). All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations.

When responding please say if you are a business, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.

Responses delivered by email will receive an automated receipt.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act, the General Data Protection Regulation (GDPR) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Revenue & Customs.

Consultation Privacy Notice

This notice sets out how we will use your personal data, and your rights. It is made under Articles 13 and/or 14 of the GDPR.

Your Data

The data

We will process the following personal data: Name / email address / postal address

Purpose

The purpose(s) for which we are processing your personal data is public consultation on Capital Gains Tax: Payment window for residential property gains (payment on account).

Legal basis of processing

The legal basis for processing your personal data is that the process is necessary for the exercise of a function of a Government Department.

Recipients

Your personal data will be shared by us with HM Treasury.

Retention

Your personal data will be kept by us for six years and will then be deleted.

Your Rights

- You have the right to request information about how your personal data are processed, and to request a copy of that personal data.
- You have the right to request that any inaccuracies in your personal data are rectified without delay.

- You have the right to request that any incomplete personal data are completed, including by means of a supplementary statement.
- You have the right to request that your personal data are erased if there is no longer a justification for them to be processed.
- You have the right in certain circumstances (for example, where accuracy is contested) to request that the processing of your personal data is restricted.

Complaints

If you consider that your personal data has been misused or mishandled, you may make a complaint to the Information Commissioner, who is an independent regulator. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
0303 123 1113
casework@ico.org.uk

Any complaint to the Information Commissioner is without prejudice to your right to seek redress through the courts.

Contact Details

The data controller for your personal data is HM Revenue & Customs. The contact details for the data controller are:

HMRC
100 Parliament Street
Westminster
London
SW1A 2BQ

The contact details for the data controller's Data Protection Officer (DPO) are:

DPOHM Revenue & Customs
9th Floor, 10 South Colonnade
Canary Wharf
London E14 4PU

Consultation Principles

This consultation is being run in accordance with the Government's Consultation Principles.

The Consultation Principles are available on the Cabinet Office website:
<http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>

If you have any comments or complaints about the consultation process please contact:

John Pay, Consultation Coordinator, Budget Team, HM Revenue & Customs, 100 Parliament Street, London, SW1A 2BQ.

Email: hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk

Please do not send responses to the consultation to this address.

Annex A: Relevant (current) government legislation

Taxes Management Act 1970

- Sections 12ZA to 12ZN: NRCGT returns in respect of non-resident CGT disposals
- Sections 28H to 28J: Simple assessment
- Section 59AA: Non-resident CGT disposals: payments on account of capital gains tax

Taxation of Chargeable Gains Act 1992

- Section 2: Gains chargeable to capital gains tax and allowable losses
- Sections 2B to 2F: ATED-related gains and losses
- Section 4: Rates of capital gains tax
- Sections 14B to 14H: UK residential property: Non-resident CGT
- Schedule B1: Disposals of UK residential property interests
- Schedule BA1: Disposals of non-UK residential property interests
- Schedule 4ZZA: Amount of ATED-related gain or loss
- Schedule 4ZZB: Amount of NRCGT gain or loss
- Schedule 4ZZC: Amount of residential property gain or loss

Finance Act 2009

- Section 102 and Schedule 54: Repayment interest
- Section 106 and Schedule 55: Penalty for failure to make returns, etc.