

Clause 1: Capital gains tax: relief on disposal of private residence

Summary

1. This clause makes a number of changes to the capital gains tax (CGT) relief on private residences (private residence relief). These changes include reducing the final period exemption from 18 months to 9 months (whilst retaining the existing the 36 months that are available to disabled persons or those in a care home), reforming lettings relief so that it only applies in those cases where the owner of the property shares-occupancy with a tenant and some minor technical changes to the PRR rules, including legislating two extra-statutory concessions (ESC).

Details of the clause

2. Subsection (1) provides that the Taxation of Chargeable Gains Act 1992 (TCGA) shall be amended in accordance with the clause.
3. Subsection (2) makes a number of changes to section 222 TCGA, which sets out the scope of private residence relief.
4. Subsection (2)(a) adds a new subsection 222(5A) which legislates ESC D21. New subsection (5A) applies where an individual has failed to make a nomination specifying which of two or more residences is their main residence within the statutory time limit of two years. It allows a late nomination, provided that the individual has not made a nomination previously and all but one of their residences has a negligible capital value (for example, is a weekly rented flat).
5. Subsection (2)(b) amends subsection 7(a). It provides that when a spouse or civil partner transfers an interest in a dwelling to their spouse or civil partner (whether or not the dwelling is their only or main residence), the receiving spouse or civil partner inherits the transferring spouse or civil partner's ownership history including their previous use of the property.
6. Subsections (2)(c) and (d) amend subsections (8A) and (8D). These changes ensure that members of the armed forces who are required to work away from their main home to fulfill their duties, and receive an armed forces accommodation allowance instead of being required to live in service accommodation, are eligible for job-related accommodation relief in respect of their main home.
7. Subsection (3) amends section 223 TCGA. It reduces the length of the final period of ownership that is always eligible for relief from 18 months to 9 months, whilst retaining the existing the 36 months available to disabled persons or those in a care home. It also repeals section 223(4) lettings relief.
8. Subsection (4) adds a new section 223ZA which legislates ESC D49. Broadly this

section applies where an individual acquires land on which they build a dwelling and which they then occupy as a main residence, or purchases an existing dwelling and delays occupation until alterations or redecoration is completed, or until they complete the disposal of their previous residence. New section 223ZA allows the period of non-occupation between acquisition and the occupation of the dwelling to be treated as a period of occupation of the house as the individual's main residence, provided that the period between acquisition and occupation as main residence does not exceed two years and no other person has used the property as a residence during that time.

9. Subsection (5) adds a new section 224A. This replaces the repealed section 223(4) TCGA so that lettings relief only applies in those circumstances where the owner of the property shares occupancy with a tenant.
10. New subsections (1) to (4) of new subsection 224A apply where an individual has at some time in their period of ownership let out part of their main residence as residential accommodation and shared occupation of the main residence with another individual who has no interest in the residence. In such cases, where the gain would otherwise be chargeable to CGT because of that letting, that gain is a chargeable to CGT only to the extent that it exceeds the lowest of—
 - the amount of the gain that arises by reason of the letting,
 - the amount of private residence relief due in respect of the disposal of the dwelling-house, and
 - £40,000.
11. New subsection (5) of new subsection 224A ensures that relief under new section 224A which would have been available to the transferring spouse or civil partner in the period prior to the transfer will be available to the recipient spouse or civil partner.
12. Subsections (6) to (11) make various consequential changes.
13. Subsection (12) provides that new subsection 222(5A) applies to nominations made on or after 6 April 2020. ESC D21 will be withdrawn after that date.
14. Subsection (13) provides that the change made by subsection (2)(b) takes effect where the transfer of the interest in the dwelling house between spouses or civil partners (whether by a lifetime disposal or passing on death) occurs on or after 6 April 2020. The existing rules continue to apply where the transfer between spouses or civil partners occurred prior to 6 April 2020, even where the disposal by the recipient spouse or civil partner is made after that date
15. Subsection (14) provides that the changes made by subsections (3) to (11) apply to disposals made on or after 6 April 2020. Extra statutory concession D49 will be withdrawn after that date.
16. The changes in relation to armed services accommodation allowance apply from Royal Assent but will not have effect until the main provision in s297 Income Tax (Earnings and Pensions) Act 2003 is brought into force.

Background note

17. Private residence relief provides relief from CGT when a person sells or otherwise disposes of a dwelling that has been used as that person's only or main residence. This core relief is supplemented by ancillary reliefs that aim to deal with other situations where imposing a tax charge would lead to undesired outcomes.
18. The proposed changes set out in this clause make a number of changes to the private residence relief ancillary reliefs by:
 - Reducing final period exemption from 18 months to 9 months, although the special rules that give those with a disability, and those in care, an exemption of 36 months will not change.
 - Reforming lettings relief so that relief is only available in those cases where the owner remains in shared occupancy with the tenant.
 - Extending job related accommodation relief by extending it to those cases where a home owner who is a serving member of the armed forces is in receipt of payments from the MOD under its Future Accommodation Model (FAM).
 - Legislating extra-statutory concessions D21 and D49.
 - Amending the private residence relief rules where spouses and civil partners transfer interests in residential properties between them.
19. These changes are intended to make private residence relief fairer and, in the case of the final period exemption and lettings relief, better targets those reliefs at owner occupiers, in line with broader tax strategy to promote home ownership.
20. If you have any questions about this change, or comments on the legislation, please contact Nick Williams on 03000 585660 (email: capitalgains.taxteam@hmrc.gov.uk).