
From:

Sent:

24 June 2014 16:28

To:

Subject:

From:

Sent: 05 May 2014 16:41

To: TaxTeam, CapitalGains (CAR Capital Gains)

Subject: Consultation on non-residents

To whom it may concern,

I wish to respond to the consultation on "Implementing a capital gains tax charge on non-residents". I write as an individual who is tax resident in the UK and who would be impacted by the change.

I rent a studio flat in the city where I work and own a property elsewhere where dependents (partner and children) live at all times and where I live when I am not working (bank holidays, weekends etc.). In my own particular case I am a cross border commuter, although my concerns would also apply to people who own one property for exclusive use as a private dwelling in one part of the UK but who rent a second property to attend work elsewhere in the UK. Aspects of the changes as presented in the consultation document could have unintended consequences for people in such a situation.

My answers to the questions posed in the document are as follows:

Questions 1-9: No Comment

Question 10: Changing PRR election rules will have unintended consequences on those who own one property for exclusive use as a private dwelling, but whom also rent a property elsewhere to attend work.

Question 11: Both approaches set out in paragraph 3.5 offer little improvement on ensuring that PRR effectively provides tax relief on a person's main residence only.

The first approach introduces uncertainty for people, and could potentially unfairly penalise people with complicated living arrangements such as those having both a residence in the UK and a residence abroad. This is because using criteria such as where post is addressed and electoral registration is not appropriate in such cases.

The second approach has the unintended consequence that people may pay CGT on their main and only owned residence (weekend home and centre of vital interests exclusively used as a private dwelling) when they rent a secondary property elsewhere to attend work.

Question 12: Two alternative approaches (which might also be combined) would be:

1. Only give UK tax residents the option to declare that a property is to be considered as a main residence for the purposes of private residence relief. This would ensure that non UK tax residents would have to pay CGT on property they dispose of in the UK, which is the main aim of the proposed change, and would not impact the arrangements that any UK tax residents have made for CGT.
2. Change CGT legislation so that property which is rented by an individual does not count as a residence of that individual from the perspective of CGT. A residence test for owned properties only could be then set on a statutory footing (similar to the statutory tax residence test), taking into account factors such as where dependents live, while taking into account that one or more residences may be in other countries so that criteria such as electoral role, where post is sent, etc. may not be suitable criteria.

In my own personal situation approach 1 would mean no change, and approach 2 would simplify matters for me (and for HMRC) as I would no longer need to declare which residence is my main residence (I only own one property and use that property exclusively as a private dwelling).

Questions 13-16: No comment.

Kind regards,

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