
From:
Sent: 09 June 2014 08:48
To: zzHMRC_TaxTeam, CapitalGains
Cc:
Subject: Consultation on capital gains charge on non-residents

Dear Sir

I am a family accountant in Tiverton, Devon.

You propose to withdraw a UK taxpayer's right to elect for which is his or her principal private residence. Your proposal is so you can tax foreigners on gains they make on residential property in this country without their being able to claim PPR exemption from CGT.

But you recognise that "in general a UK residence will not be the main residence of a non-resident and therefore the CGT exemption available under PRR will not be appropriate".

It is completely disproportionate and unfair to withdraw a widely used relief that enables a UK taxpayer to assert the facts of a case in support of a reasonable claim for the right tax treatment, just because some foreigners may abuse it.

HMRC already insists that a claim for PRR under an election - or in the absence of an election - is supported by appropriate evidence. In the case of a person with an international profile this will include evidence of days spent in this country.

The election process makes it possible for a taxpayer to live without the shadow of fear during all their years of residence in a property, that HMRC will inappropriately tax the taxpayer's biggest asset, remove the taxpayer's liquidity and prevent the taxpayer from moving to a similarly-priced house in another part of the country. Stamp duty is already a substantial tax on and deterrent to mobility: this would further cripple it.

For example, a taxpayer has a country residence which he owns but has a job which takes him to another part of the country regularly for an extended period - in excess of two years. In income tax terms that person has no allowance for travelling from the country residence to the job, nor any deduction available for the expense of a rental in the job's location. Obviously the taxpayer can't commute daily and so he rents a flat, the cheapest solution. As the working week is longer than the weekend the taxpayer spends more time in the job town than in the country residence. How does the taxpayer drive the conclusion that the country residence is what he should get PRR on - and quite fairly so? He could spend years under the shadow of the fear of inappropriate taxation of the property he owns because he also has a leased property.

The suggestion that HMRC should have the power to determine the PPR of a taxpayer is, in my view, disingenuous at best. What interest does HMRC have in making a decision favourable to the taxpayer in this matter? The very suggestion demonstrates the need for a decision mechanism. And if anyone is to have the authority to make that decision in the first instance, it should be the taxpayer.

It may be that this topic is ground on which Members of Parliament may be reluctant to tread publicly in case of resurrected accusations of self-interest. I believe such accusations would be misdirected as the cgT aspect of MPs' accommodation was not where any inappropriateness lay: the real controversial aspects were the allowances. But in the light of the political sensitivity of the topic it is essential that HMRC does not seek to drive through this policy under cover of a muted debate.

I therefore believe that

- the proposals are the wrong solution to the problem you perceive,
- they are unfair and worrying to a very large number of UK taxpayers and

- the power to elect should not be withdrawn.

Moreover the power to re-elect should not be withdrawn either, because circumstances change, only one property can benefit as a time anyway, and the period of potential double-relief has been reduced to 18 months.

Yours sincerely