
From:

Sent:

24 June 2014 16:37

To:

Subject:

FW: Consultation on non-residents - response from

-----Original Message-----

From:

Sent: 17 April 2014 09:55

To: TaxTeam, CapitalGains (CAR Capital Gains)

Subject: Consultation on non-residents [GJ-InternalDocs.FID1412]

Dear sirs

Consultation on non-residents

Question 10

Unintended consequences of changing the PPR rules.

Whilst I understand the need to prevent abuse of the election, this election is a very practical tool for avoiding a great deal of otherwise necessary work both from the tax payer and the HM Revenue and Customs in establishing the facts of the case where two or more properties are available as a residence. It is relatively straight forward to establish whether a property is available as a residence but much more difficult to determine by fact which is the main one where more than one is available. A test based on say number of days of occupation may fall into difficulties say where there was a family home in the country and a property in town. One spouse could live more frequently in the town house whilst the other in the country home and there we need to be complicated rules to determine which was more "main".

The perceived mischief could better avoided by restricting the definition of a property available as a residence for the purpose of the election. This could be achieved by defining residence for the purpose of TCGA s 222(5) as a residence in the UK and actually occupied by the claimant their spouse or civil partner for a minimum period in the tax year of more than say 45 days. A minimum of 45 days would fall into line with one of the statutory residence tests. It would also enable weekend homes to qualify but exclude properties only occasional occupied.

Yours faithfully