



Capital gains tax: non-UK residents and UK residential property

Who is likely to be affected?

Non-UK resident persons that own UK residential property, in particular:

- non-UK resident individuals;
- non-UK resident trusts;
- personal representatives of a deceased person who was non-UK resident; and
- non-UK resident companies controlled by five or fewer persons, except where the company itself, or at least one of the controlling persons, is a 'qualifying institutional investor'.

It will also affect some UK resident individuals disposing of properties overseas, or who spend part of a tax year abroad.

General description of the measure

The measure will apply a capital gains tax (CGT) charge to gains accruing on the disposal of UK residential property by non-UK resident persons.

Policy objective

The measure improves the fairness of the tax system by addressing the current imbalance between the treatment of UK residents and non-residents disposing of UK residential property.

Background to the measure

This measure was announced at Autumn Statement 2013. The consultation "*Implementing a capital gains tax charge on non-residents*" ran between 28 March and 20 June 2014. A summary of responses to the consultation was published on 27 November 2014.

Detailed proposal

Operative date

This measure will have effect on and after 6 April 2015.

Current law

Section 1 of the Taxation of Chargeable Gains Act 1992 (TCGA) provides, broadly, that a company is chargeable to corporation tax, and not CGT, in respect of chargeable gains accruing to them. Section 5 of the Corporation Tax Act 2009 then limits the charge to corporation tax to UK resident companies and non-UK resident companies that carry on a trade in the UK through a UK permanent establishment.

Section 2 of the TCGA provides that a person (other than a company) is chargeable to CGT in respect of chargeable gains accruing to him in a tax year if a residence condition is met. That residence condition limits the charge to CGT to UK residents.

The Taxes Management Act 1970 contains provision about returns and payment of CGT.

Sections 222 to 226B of the TCGA provides relief from CGT for a person's only or main residence ("private residence relief"), which includes allowing a taxpayer with more than one residence for a period to determine which is his main residence.

Proposed revisions

Legislation will be introduced in Finance Bill 2015 to amend sections 1 and 2 of the TCGA and insert new sections to bring non-UK residents within the charge to CGT when they dispose of a UK residential property interest.

Non-UK resident individuals and trustees may be able to benefit from private residence relief if they meet new qualifying conditions. But provisions will also restrict access to private residence relief for properties located in a territory in which the individual is not tax resident where the person does not spend a minimum of 90 midnights in the property over the year.

Non-resident institutional investors that are diversely owned, and companies that are not controlled by five or fewer persons will be exempt from the charge. Companies that are within the new charge and part of a group may treat the assets of the group on a 'pooled' basis, with gains and losses of different non-resident group members being offset in year, unrelieved losses carried forward, and transfers within the group on a tax-neutral basis.

Provisions will make clear that a residential property interest includes an interest in land that has at any time in the person's ownership consisted of or included a dwelling. The meaning of 'dwelling' will be based on that found within the annual tax on enveloped dwellings (ATED) legislation but will be modified, in recognition of changes to the provision of student accommodation, to make clear that purpose built student accommodation that is not linked to a specific institution is one of the classes of use not regarded as use as a dwelling.

Provisions will make clear that the CGT charge will be due to be paid within 30 days of the property being conveyed, unless the person has a current self-assessment record with HM Revenue & Customs (HMRC) when payment will be at the normal due date for the tax year in which the disposal is made.

Summary of impacts

Exchequer impact (£m)	2014-15	2015-16	2016-17	2017-18	2018-19
	-	nil	+15	+45	+70
	These figures are set out in Table 2.2 of Budget 2014 and have been certified by the Office for Budget Responsibility. More details can be found in the policy costings document published alongside Autumn Statement 2013.				
Economic impact	The measure is not expected to have any significant economic impacts. Most non-residents will be subject to tax on their gains in their country of residence. This measure merely alters the balance of taxing rights, aligning the UK with most other countries.				
Impact on individuals, households and families	The measure will increase the CGT liability for non-residents disposing of UK residential property and will create parity between UK residents and non-residents disposing of UK residential property. The measure is not expected to impact on family formation, stability or breakdown.				
Equalities impacts	This measure is not expected to have a disproportionate impact on any protected group.				

<p>Impact on business including civil society organisations</p>	<p>This measure will affect non-resident businesses. It is likely to mostly affect small non-resident property rental and investment businesses. It is estimated that there will be negligible one off costs for businesses making property disposals in future needing to familiarise themselves with the new legislation and reporting requirements.</p> <p>It is assumed that the majority of businesses will dispose of at most one residential property per annum. There will be additional administrative burdens each time a non-resident business makes a disposal of a property – they will need to complete a new return and pay within 30 days unless they already complete self–assessment returns for other reasons. These burdens are expected to be approximately £0.3 million per annum for approximately 4,000 property disposals in total per annum, if all non-resident businesses comply with their obligations.</p> <p>The measure will not impact on charities as they are exempt under the current legislation.</p> <p>Estimates of compliance costs are shown in the table below, including an estimate of total costs for a five year period at present value.</p> <table border="1" data-bbox="400 846 1386 1693"> <thead> <tr> <th></th> <th>Cost</th> <th>Time Period (yrs)</th> </tr> </thead> <tbody> <tr> <td>Compliance Costs</td> <td></td> <td></td> </tr> <tr> <td>One off costs</td> <td>negligible</td> <td>N/A</td> </tr> <tr> <td>Average annual costs</td> <td>£0.3m</td> <td>5 years</td> </tr> <tr> <td>Total Costs (PV)</td> <td>£2.3m</td> <td>N/A</td> </tr> <tr> <td></td> <td></td> <td></td> </tr> <tr> <td>Compliance Benefits</td> <td></td> <td></td> </tr> <tr> <td>One off benefit</td> <td>N/A</td> <td>N/A</td> </tr> <tr> <td>Average annual benefit</td> <td>N/A</td> <td>N/A</td> </tr> <tr> <td>Total Benefit</td> <td>N/A</td> <td>N/A</td> </tr> <tr> <td>Net Benefit</td> <td>-£2.3m</td> <td></td> </tr> <tr> <td>Impact on Administrative Burden (included in Net Benefit)</td> <td></td> <td></td> </tr> <tr> <td>Increase</td> <td>Decrease</td> <td>Net Impact</td> </tr> <tr> <td>£0.3m</td> <td>£0m</td> <td>£0.3m</td> </tr> </tbody> </table>		Cost	Time Period (yrs)	Compliance Costs			One off costs	negligible	N/A	Average annual costs	£0.3m	5 years	Total Costs (PV)	£2.3m	N/A				Compliance Benefits			One off benefit	N/A	N/A	Average annual benefit	N/A	N/A	Total Benefit	N/A	N/A	Net Benefit	-£2.3m		Impact on Administrative Burden (included in Net Benefit)			Increase	Decrease	Net Impact	£0.3m	£0m	£0.3m
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<p>Operational impact (£m) (HMRC or other)</p>	<p>HMRC will incur costs in implementing this measure of approximately £3.2 million. This will be additional work because these are a new group of customers with a possible increase in calls to the self-assessment help line from customers.</p>																																										
<p>Other impacts</p>	<p><u>Small and micro business assessment</u>: the impact of this measure on small businesses is not anticipated to differ from large businesses.</p> <p>Other impacts have been considered and none have been identified.</p>																																										

Monitoring and evaluation

The measure will be monitored through information collected by tax returns.

Further advice

If you have any questions about this change, please contact:

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