S.J.P.R ACCOUNTANTS

The family home

For most families, buying their home will be the most sought after and largest investment they will ever make. Recognising this, governments have been keen to assist home buyers by exempting the sale of their main private residence from the Capital Gains Tax (CGT) charge. Exemption from CGT is afforded by the Private Residence Relief.

This Private Residence Relief (PRR) is very generous and has allowed many home owners to buy and sell their way up the property ladder without any loss to taxation. Those buying larger properties may like to note that PRR may not be available if the grounds including the site of the house exceed 5,000 square meters (a little over one acre).

What if you own a second home?

Unfortunately, PRR is not available and you will pay Capital Gains Tax when you sell a second home unless you have nominated that particular property to be your main residence at any time. The sums can get a little intricate.

If you own more than one home, the final 9 months of ownership of the second home are treated as if the home owner had lived in the house for that period (as long as the property had been occupied by the owner as a main home during part of the period of ownership).

What if you let your home?

When all or part of your home has been rented out, the entitlement to PRR may be affected. However, this may be covered by Letting Relief.

The maximum amount of Letting Relief that can be claimed is the lower of £40,000; the amount of PRR due; or the amount of gain you have made on the let part of the property.

You will only qualify for Lettings Relief if you share the property with your lodger.

The letting exemption is not available on a 'buy to let' property in which a taxpayer has never lived.

What if you have to work or live away from home?

There are special rules that may entitle the home owner to claim PRR if they live elsewhere due to reasons of employment. For example, where a homeowner carried on all of their work or duties outside the UK or where the distance from work or the requirements of their job stopped them living at home and they were absent for less than four years. To qualify, the home in question must have been the taxpayer's only or main residence both before and after they worked away.

Additionally, the first 12 months (and exceptionally up to two years), when a homeowner was waiting to sell an old home or carrying out refurbishment, can be treated as if the house had been the only or main residence in that period.

Will you have to pay tax when you sell if you have worked from home?

Home owners who work from home do not suffer any restriction to the relief, where business use of the home is not related to a specific area e.g. when a home office also doubles as a spare bedroom. In tax jargon, this is referred to as duality of use.

However, where part of the home is used exclusively for business purposes, e.g. a photo studio, then a part of the proceeds from the sale of the house will relate to a chargeable rather than exempt use and Capital Gains Tax may be payable.

What if you want to sell part of the garden?

It is possible to qualify for relief from CGT when selling part of the garden attached to your home if you continue to own the house. The exemption will apply if the homeowner continues to own the property with the rest of the unsold garden, and the total original area was within the 5,000 square metre limits.

If a homeowner sells a house and part of the garden, and at a later date sells the rest of the garden for development, this would not qualify for exemption on the second sale. This is because the land is no longer part of the main residence at the moment of sale.

Is our home exempt from Inheritance Tax (IHT)?

The answer to this question is maybe. If the value of your home does not increase the value of your estate for IHT purposes, above the present nil rate band (£325,000 for 2023-24), then no IHT would be payable.

There is also the Residence Nil Rate Band (RNRB) that could possibly, add a further £175,000 of relief to the nil rate band. The relief has been available at this level since April 2020.

If your Wills have been drawn up with IHT in mind; most families where the spouses are married or in a civil partnership should pay little or no IHT until the second death, and even then many estates may still be exempt.

A few planning points to consider

- You won't qualify for PRR if you dispose of all or part of your garden after you've disposed of your home.
- You won't qualify for PRR if you acquire a dwelling house and/or spend money on it to realise a gain on its disposal.
- If you make a loss on the disposal of your home and you would have qualified for PRR if you had made a gain, your loss won't be an allowable loss and you won't be able to offset it against other capital gains you may have made. If you would have got partial relief, part of your loss won't be allowable, and that part should be calculated in the same way as you would have calculated the partial relief if you had made a gain.
- If your home includes more than one building, for example, if it has several outbuildings, any relief available for your dwelling house might not extend to the outbuildings.
- If you have a single lodger, the rooms occupied by the lodger qualify for PRR.
- If part of your dwelling house is used exclusively for a trade or business, that part won't qualify for relief.

How can we help?

As you will have gleaned from the above notes, complications can arise if you are buying multiple properties, considering absences from your present home, or letting your home. In many cases planning how and when you make these choices can make a significant difference to the amount of tax you pay when you sell. Often, planning needs to be implemented before changes apply. We can advise you how to organise matters so your exposure to taxation is minimised.

Summary action list

- Keep a log of any periods when you let out your home.
- If you have more than one home, consider your options to file an election to change which property is to be considered your principle private residence.
- Keep a record of any improvements you make to your properties. These may be required if there are Capital Gains Tax issues when you dispose of a property.
- Take professional advice if you are considering letting your home; acquiring a second or subsequent property; or changing the ownership status on marriage or divorce.

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