GILLESPIE MACANDREW

Common examples of situations where Capital Gains Tax may be payable on the disposal of UK residential property

Example 1: Investment Property (eg buy-to-let)

Alexander bought a flat as an investment in July 2005. Over his period of ownership, he has rented the flat out to a series of tenants but he has never lived in the flat himself. He sells the flat in May 2020 and realises a gain of £65,000.

As the flat was never his only or main residence he cannot claim Principal Private Residence Relief.

The gain must be reported and the tax must be paid within 30 days of completion of the property sale.

Example 2: Holiday Home

Bruce and his wife, Catriona, bought a small cottage near the coast in 1996 which they used as a holiday home when their children were young. For years they used the cottage every second weekend and for a few weeks during the summer holidays. They have been making less use of the cottage since their children grew up and they have now decided to sell it.

Bruce and Catriona expect to make a total gain on sale of £90,000. This will be split between them equally – so they will make a gain of £45,000 each. The cottage has never been their main residence so they cannot claim any Principal Private Residence Relief.

Catriona and Bruce will each have to submit a return within 60 days of completing the sale of the cottage and pay their capital gains tax liabilities at that time, assuming the sale completes after 27 October 2021.

Example 3: Inherited Property

Dougal inherited a house from his father in 2016 which he initially decided to rent out. Dougal and his family are currently living in a small flat but their family has grown and they would like to move to a bigger house with a garden for the children. Dougal decides to sell the house he inherited from his father and put the sale proceeds towards the cost of buying his new home.

The house was valued at £450,000 when Dougal inherited it and he expects to sell it for £495,000. Dougal will have a capital gain of £45,000. He will not be able to claim Principal Private Residence Relief as he has not lived in the house during his period of ownership.

Dougal will have to report the capital gain and pay the tax due within 60 days of completing the sale of the house, assuming the sale completes after 27 October 2021.

Example 4: Children at University

Four years ago, Evelyn and Fraser bought a flat for their son to live in while at university in London. They don't charge him a rent. He lets rooms in the flat to friends and Evelyn and Fraser let him keep the rent to help towards his living expenses while he is a student. Their son will graduate in the summer and they want to sell the flat. They expect to realise a gain of £80,000.

As the flat has never been their main home they will not be able to claim Principal Private Residence Relief. It does not matter that their son lived in the flat while he was still financially dependent on them. The gain will be split between them equally - £40,000 each.

They will each have to submit a return within 60 days of completing the sale of the London flat and pay their capital gains tax liabilities at the same time, assuming the sale completes after 27 October 2021.

Example 5: Delay in Property Sale

Gavin and Ian want to downsize. They bought their new home in March 2018 and moved in straight away. They had intended to carry out some repairs and minor redecoration work to their old house before selling it to maximise their chances of getting the best price. However, before the property could be put up for sale, Gavin had a period of illness which delayed their plans. In a further run of bad luck, after the property was put on the market two sales fell through before the house was finally sold in September 2020. Their former home was in Gavin's sole name.

Gavin owned the house for 28.5 years but it was only his main residence for 26 years – until March 2018 when he and Ian moved to their new home. Although he is able to count the final 9 months of his period of ownership as a period of occupation for the purpose of Principal Private Residence Relief, a proportion of the gain will still be chargeable to capital gains tax.

If the chargeable gain exceeds his Annual Exemption and any realised capital losses, Gavin will have to submit a return within 30 days of completing the sale of the old house and pay the capital gains tax at the same time.

Example 6: Job Changes

Jane bought a flat in Manchester in October 2010 which she used as her main residence. Jane was made redundant in July 2012 and, after initially looking unsuccessfully for work in the Manchester area, she took a two year contract for a job in Glasgow in October 2012. She planned to return to Manchester at the end of the contract so she decided to let out her flat and live in rented accommodation in Glasgow.

Jane's Glasgow contract was extended for a further two years. By the time it came to an end in October 2014, Jane had decided to move in with her partner and settle down in Edinburgh. They initially lived together in rented accommodation while they looked for a house to buy together. Jane eventually sold her flat in Manchester in October 2020 and used the funds to buy a new house with her partner.

Jane made a gain on the sale of the property of £65,000.

Jane owned the flat for 10 years but only lived there for 2 years. Even taking account of the final 9 month period of ownership when she is deemed to have occupied the flat, a significant proportion of the gain will be chargeable to capital gains tax.

If the chargeable gain exceeds Jane's Annual Exemption and any realised capital losses, Jane must submit a return within 30 days of completing the sale of her Manchester flat and pay the capital gains tax due at that time.

Example 7: Moving in with Partner

Karen and Maisie both own their own flats. Karen moves in with Maisie and they live together in Maisie's flat. Karen retains her flat as an investment and lets it out through a letting agency which provides enough income to cover the mortgage payments.

After a few years, Karen and Maisie decide they would like to move to a bigger property. They sell both of their flats and use the combined proceeds to buy a new house.

The gain on the sale of Maisie's flat will qualify for Principal Private Residence Relief in full because Maisie has always occupied the flat as her main residence. She does not have to submit a return because she has no capital gains tax to pay on the sale of her flat.

The gain on the sale of Karen's flat will only partially qualify for Principal Private Residence Relief because Karen has not lived there throughout her period of ownership. If the chargeable gain exceeds her Annual Exemption and any realised capital losses, Karen must submit a return in relation to the sale of her flat within 30 days of completion. She will need to pay the capital gains tax liability at the same time.

Example 8: Separation and Divorce

John and Margaret bought their home in August 2002. They lived together in this house as their main residence until they separated in August 2019. At that time, John moved into one of the two flats that he and Margaret had previously purchased as buy-to-let investments.

They reach a financial agreement for their separation on November 2020. Under the terms of the agreement, John will take sole ownership of the flat which he is now living in and Margaret will take sole ownership of the other flat. They agree to continue to jointly own the family home until their youngest child is 18. They expect to sell the family home around August 2024.

Even although no money is changing hands, John will be treated as disposing of a half-share of one of the buy-to-let flats to Margaret and, similarly, Margaret will be treated as disposing of a half-share of the other buy-to-let flat to John. Neither John nor Margaret will qualify for any Principal Private Residence Relief on their disposals because neither of them have lived in the flats in which they are disposing of their interests.

They will each have to submit a tax return and pay capital gains tax within 30 days of transferring their interests in the flats to the other.

When the family home is sold, Margaret will not have to pay any capital gains tax on her share of the gain because the house will have been her main residence throughout her period of ownership. However, John's gain will only partly be covered by Principal Private Residence Relief because the house has not been his main residence throughout his period of ownership. A proportion of the gain will be chargeable to capital gains tax.

If the chargeable gain exceeds John's Annual Exemption and any allowable capital losses he will have to report the gain