



Capital gains tax private residence relief final period exemption

Who is likely to be affected?

Individuals who own one or more properties that they have lived in as their main residence at any time.

General description of the measure

Where a person owns one or more properties that have been their main residence they are entitled to relief on the final period if they dispose of a property they are not currently living in. The measure will reduce the period of ownership for which this relief is available from 36 months to 18 months.

Policy objective

This measure makes the tax system fairer by reducing the incentive for those with more than one property to exploit the rules while still providing people with sufficient time to sell a previous residence after moving to a new one.

Background to the measure

This measure was announced on 5 December 2013.

Detailed proposal

Operative date

This measure will have effect where contracts for the sale of the property are exchanged on or after 6 April 2014.

This measure will not have effect where contracts for the sale of the property are exchanged on or before 5 April 2014 and completed on or before 5 April 2015.

Current law

Section 223 of the Taxation of Chargeable Gains Act 1992 (TCGA) says that no part of a gain on a private residence as defined in section 222 of TCGA is a chargeable gain if the property has been the person's only or main residence throughout the period of ownership. There is an exception for the last 36 months of ownership.

Proposed revisions

Legislation will be introduced in Finance Bill 2014 to amend section 223 to reduce the final period for which relief can be given where the property is not the person's only or main residence from 36 months to 18 months in most cases.

In recognition that a person moving into care may take longer to decide to dispose of their former home, the period will remain a 36 month final period for this group of people.

Summary of impacts

Exchequer impact (£m)	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
	-	nil	+65	+90	+100	+105
	These figures are set out in Table 2.1 of the Autumn Statement and have been certified by the Office for Budget Responsibility. More details can be found in the policy costings document published alongside the Autumn Statement.					
Economic impact	The measure is not expected to have any significant economic impacts.					
Impact on individuals and households	This measure would increase the capital gains tax (CGT) liability for an individual who has two or more private residences at the same time for a period of more than 18 months. Those affected by this change are likely to be wealthy individuals with more than one property.					
Equalities impacts	This measure is not expected to have a disproportionate impact on any protected group.					
Impact on business including civil society organisations	This measure is expected to have no impact on businesses or civil society organisations.					
Operational impact (£m) (HMRC or other)	There will be a negligible operational impact on HM Revenue & Customs.					
Other impacts	Other impacts have been considered and none have been identified.					

Monitoring and evaluation

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

Further advice

If you have any questions about this change, please contact Tracy Gribble on 03000 585169 (email: tracy.gribble@hmrc.gsi.gov.uk).

1 Relief on disposal of private residence

- (1) TCGA 1992 is amended as follows.
- (2) In section 223 (relief on disposal of private residence: amount of relief) –
 - (a) in subsections (1) and (2)(a), for “36 months” substitute “18 months”;
 - (b) omit subsections (5) and (6);
 - (c) in subsection (8), omit the “and” after paragraph (aa) and after that paragraph insert –
 - “(ab) section 225E (disposals by disabled persons or persons in care homes etc), and”.
- (3) After section 225D insert –

“225E Disposals by disabled persons or persons in care homes etc

- (1) This section applies where a gain to which section 222 applies accrues to an individual and –
 - (a) the conditions in subsection (2) are met, or
 - (b) the conditions in subsection (3) are met.
- (2) The conditions mentioned in subsection (1)(a) are that at the time of the disposal –
 - (a) the individual is a disabled person or a long-term resident in a care home, and
 - (b) the individual does not have any other relevant right in relation to a private residence.
- (3) The conditions mentioned in subsection (1)(b) are that at the time of the disposal –
 - (a) the individual’s spouse or civil partner is a disabled person or a long-term resident in a care home, and
 - (b) neither the individual nor the individual’s spouse or civil partner has any other relevant right in relation to a private residence.
- (4) Where this section applies, the references in section 223(1) and (2)(a) to 18 months are treated as references to 36 months.
- (5) An individual is a “long-term resident” in a care home at the time of the disposal if at that time the individual –
 - (a) is resident there, and
 - (b) has been resident there, or can reasonably be expected to be resident there, for at least three months.
- (6) An individual has “any other relevant right in relation to a private residence” at the time of the disposal if –
 - (a) at that time –
 - (i) the individual owns or holds an interest in a dwelling-house or part of a dwelling-house other than that in relation to which the gain accrued, or
 - (ii) the trustees of a settlement own or hold an interest in a dwelling-house or part of a dwelling-house other than that in relation to which the gain accrued, and the individual is entitled to occupy that dwelling-house or part under the terms of the settlement, and

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- (b) section 222 would have applied to any gain accruing to the individual or trustees on the disposal at that time of, or of that interest in, that dwelling house or part (or would have applied if a notice under subsection (5) of that section had been given).
 - (7) In the application of this section in relation to a gain to which section 222 applies by virtue of section 225 (private residence occupied under terms of settlement) –
 - (a) the reference in subsection (1) of this section to an individual is to the trustees of the settlement;
 - (b) the references in subsections (2) to (6) of this section to the individual are to the person entitled under the terms of the settlement, as mentioned in section 225.
 - (8) In this section –
 - “care home” means an establishment that provides accommodation together with nursing or personal care;
 - “disabled person” has the meaning given by Schedule 1A to FA 2005.”
 - (4) The amendments made by this section have effect in relation to disposals –
 - (a) made on or after 6 April 2014, or
 - (b) made before that date under a contract, unless the conveyance takes place before 6 April 2015.

EXPLANATORY NOTE

TAX RELIEF ON DISPOSAL OF PRIVATE RESIDENCE CAPITAL GAINS

SUMMARY

1. Clause X reduces, in most cases, the period for which an only or main residence qualifies automatically for final period exemption from 36 months to 18 months. The exception to this change applies to individuals who are disabled or in a care home and with no other property on which they can claim private residence relief, who will continue to get the 36 month final period exemption.

DETAILS OF THE CLAUSE

2. Subsection (1) provides that the Taxation of Chargeable Gains Act 1992 (TCGA 1992) shall be amended in accordance with the clause.

3. Subsection (2) amends section 223 of TCGA 1992, which provides for the amount of relief from capital gains tax that is available when an individual disposes of an interest in a private residence (a dwelling-house that is, or has at any time in their ownership been, their only or main residence). It reduces the length of the final period of ownership that is always eligible for relief from 36 months to 18 months; removes the ability to amend that period by Treasury order; and makes section 223 subject to a new relief introduced at section 225E.

4. Subsection (3) inserts new section 225E into TCGA 1992.

5. New section 225E provides for a new relief on disposal of a private residence for an individual who is a disabled person or living in a care home at the time of the disposal; enabling them to retain a final period exemption of 36 months. In order to qualify the individual must not have any other residential property on which they can claim private residence relief.

6. New subsection 225E(3) extends relief to the spouse or civil partner of the individual mentioned above.

7. New subsection 225E(7) provides that where the property is held in trust, private residence relief can be given to the trustees for the final 36 months of ownership where the individual occupying the property meets the conditions in section 225E (2) to (6).

BACKGROUND NOTE

8. The final period exemption allows people 18 months to sell a previous only or main residence after moving to a new one without losing private residence relief for the property they are no longer living in.

9. The final period was reduced from 36 months to 18 months as the longer period was being exploited by individuals with more than one property.

10. If you have any questions about this change, or comments on the legislation, please contact Tracy Gribble on 03000 585169 (email: tracy.gribble@hmrc.gsi.gov.uk).