Changes to Principal Private Residence Relief

JAMES COHEN FROM GSC SOLICITORS TALKS US THROUGH THE LAW CHANGES THAT WILL AFFECT PEOPLE WHO HAVE MORE THAN ONE PLACE OF RESIDENCE.

THE FINANCE BILL 2015 was published on 10 December 2014 for consultation. One of the many measures to be put in place and one that will have a particular impact on UK residents and non-UK residents, who have more than one residence, is the change to the Principal Private Residence (PPR) relief. The new law came into force on 6 April 2015.

PREVIOUS RULES

Capital Gains Tax (CGT) is a tax on the profit when you sell an asset that has increased in value. One of the main exemptions is when an individual sells their only or main residence. Where an individual has lived in the property from the date of purchase to the date of sale any gain arising from the sale is covered by PPR and it is fully exempt from CGT. Also, the last 18 months ownership of the property is always covered by PPR, even if the individual has not lived in the property during that period.

Individuals with more than one residence have the ability to choose which residence is their main residence for PPR. They have two years from the date of purchase of their second/ subsequent home to decide which property to elect as their main residence.

This enables individuals with more than one home to elect the property that is either going to increase in value the most, or the property that they're likely to sell first. This included property

situated outside the UK.

NEW RESTRICTIONS ON PPR

From 6 April 2015 any residence owned by a UK or non-UK resident will only qualify for PPR if it is located in the same territory where the individual is resident. This means that UK residents with second home abroad and non-UK residents with a home in the UK will no longer be able claim PPR.

The only exemption to this rule is if the individual meets the "day count test". The day count test will be met if an individual or their spouse has spent at least 90 midnights in the property in the same tax year in which the property is sold.

OUR COMMENTS:

- UK tax residents will typically continue to be able to obtain PPR for their UK homes.
- UK residents with overseas second homes from 6 April 2015 must satisfy the new 90 day rule to claim PPR relief.
- Before an individual is to sell their home in another country advice must be given in that territory to see whether they are considered to be resident in that territory.
- It's particularly important that employees who take up overseas assignments review the new rules carefully if they are looking to sell their home whilst overseas.
- The new PPR rules' main intention is to prevent non-UK residents being able to benefit from PPR. This goes hand in hand with the new CGT rules that have been bought into law at the same time that now taxes non-residents on sale of UK residential property.
- Watch out for the 90 day count test, as individuals claiming this may fall into being UK tax residents under the Statutory Residence Test.

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