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flash Alert

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United Kingdom – New Online Form, Guidance on Nonresidents' Disposals of U.K. Residences

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The U.K. tax authority, HM Revenue & Customs (HMRC), has made available online the return of information due when a property owner disposes of a U.K. residential property interest.¹ In addition, further guidance has been issued.²

Why This Matters

Even where an individual's tax affairs are dealt with under the U.K. self-assessment system, a return needs to be filed with HMRC giving details of the sale of the property within 30 days of completion of the disposal. This is known as a Non-Resident CGT (NRCGT) return. If the individual is not within self-assessment, any tax due on the disposal also needs to be paid within this time limit.

It is important that individuals understand the information which is required for the NRCGT return and understand the consequences of not filing or paying the tax within the deadline. In addition, the position of who is ultimately responsible for any tax due under assignment or tax equalization policies should be made clear to all individuals currently on or about to commence an assignment.

Background

We reported in GMS [Flash Alert 2015-049](#) (7 April 2015) that updated legislation had been published on gains made by non-U.K. residents on the sale of U.K. residential property. From 6 April 2015, any non-U.K. owner making a disposal of a U.K. residential property interest is required to make a return to HMRC, and may also need to pay the capital gains tax (CGT) due, within 30 days of conveyance of the property.

The NRCGT Return

As mentioned above, any non-U.K. resident owner who makes a disposal of a U.K. residential property interest will be required to deliver a tax return to HMRC within 30 days of completion of the disposal.

Now that the return has been published by HMRC we can confirm that the return will be submitted online. The return needs to include details of the person making the disposal, the property disposed of, any exemptions or reliefs (including Principal Private Residence (PPR) relief) being claimed, and any elections to use one of the alternative methods of calculating the post-6 April 2015 element of the gain or loss on disposal.

A computation of the gain or loss is also required, and can either be included in the form (using the other information boxes) or sent by e-mail. It is also possible to nominate an agent to deal with HMRC specifically about the NRCGT return through the online submission.

The NRCGT return must be filed whether a gain or a loss has been made, and whether any tax is due at that time. The online form also states that a separate NRCGT return is required for each disposal of a property.

KPMG Note

The fact that the NRCGT form says a return must be completed for each disposal appears to be inconsistent with new legislation. KPMG LLP (U.K.) will be raising this with HMRC. If there are any changes to this position, we will endeavour to inform *Flash Alert* readers.

The return requires an individual to enter an amount of non-resident CGT due. However, the legislation states individuals within self-assessment do not need to assess the CGT payable until their tax return is filed. To be considered within self-assessment, the individual ought to have received a notice to file a Tax Return for the year of disposal or the previous year.

We understand from discussions with HMRC that this inconsistency is because HMRC was required to produce the NRCGT return before the legislation was finalized. HMRC will be making amendments to the return to bring it in line with the final legislation. In the meantime, individuals who are within the self-assessment system will not be required to provide a computation of the gain when submitting the NRCGT return.

HMRC Guidance

The guidance covers a number of areas and our previous *Flash Alert* newsletters have covered these. To reiterate, the key points covered by the guidance are as follows:

- ***When an individual is liable to CGT and the types of property on which CGT is paid.***
- ***Availability of allowances and reliefs including PPR relief.*** The guidance confirms that if PPR relief is available for part of the period of ownership of the property then there will be no tax payable on sale of the property if it is sold between 6 April 2015 and 6 October 2016. This is on the basis that the final 18 months of ownership will be covered by PPR relief irrespective of occupation of the property. However, the sale must be reported to HMRC using the new NRCGT return.

The guidance also confirms the introduction of the new “90-day rule” whereby the property can qualify for PPR relief for any tax year in which the taxpayer or his or her spouse is present in the property overnight for at least 90 days (apportioned for a part year of ownership). This 90-day rule applies when the individual is not resident in the territory where the property is located.

- ***How to calculate the chargeable gain and how to calculate the tax payable.*** Examples are given of both HMRC’s default method of calculating the gain, which involves rebasing the value of the property to 6 April 2015, and of the alternative method of calculation, which is to time apportion the gain over the total period of ownership.

KPMG Note

How the property is valued at 6 April 2015, is a decision the taxpayer needs to make, although there is a procedure to ask HMRC to check the valuation using an online form (a “post transaction valuation check form”). The guidance for this service states that a taxpayer should allow at least 2

KPMG Note (cont'd)

months for a valuation to be checked, and it therefore appears that in these situations a taxpayer will have to submit a NRCGT return using an estimate and then amend the return if a different valuation is finally agreed with HMRC.

A taxpayer has until 31 January following the end of the tax year to amend the NRCGT return (i.e. amendments must be submitted by 31 January 2017, for disposals made in the period between 6 April 2015 and 5 April 2016). It is worth noting that penalties can be levied for a return which leads to an under-payment of tax that is "careless", "deliberate," or "deliberate and concealed," and so taxpayers should take care to establish that all valuations used when completing the NRCGT return are as accurate as possible.

HMRC has stated it has no preference as to the method of valuation and it is not necessary to obtain a valuation of the property until the time of disposal. HMRC has stated, however, that records should be kept as to the condition of the property as of 6 April 2015, to assist with the later valuation and to help prove that any valuation made is reasonable. Individuals with "high value" properties or properties in areas where house values can fluctuate significantly may wish to consider obtaining a professional valuation of the property at this time, irrespective of HMRC guidance.

- **How to report and pay the tax due.** It is clear that an NRCGT return must be filed within 30 days of conveyance of the property. Once a return is filed, then HMRC will issue a reference number that is used when payment is made.

KPMG Note

The guidance states that if a taxpayer is required to pay the tax within the 30-day period, the taxpayer first needs to submit the NRCGT return to request a payment reference and then make payment once the reference is received. This has the potential to make an already tight deadline even tighter, and it is recommended that non-residents not within the scope of self-assessment take this into account and submit their returns in good time.

Footnotes:

- 1 For HMRC's online form "Non-resident: Report and Pay Capital Gains Tax on UK Residential Property," [click here](#).
- 2 See: <https://www.gov.uk/capital-gains-tax-for-non-residents-uk-residential-property>.

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The information contained in this newsletter was submitted by the KPMG International member firm in the United Kingdom. The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

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