Capital gains tax implications of selling the buy-to-let

There may come a time when a landlord no longer wants to hold a buy-to let property and puts the property on the market. When selling an investment property, such as a buy-to-let, it is important to be aware of the capital gains tax implications, and also the changes that came into effect from 6 April 2020.

Any private residence relief?

If the property had been occupied as a main residence for some of the period of ownership, some private residence relief will be available. The gain will be sheltered to the extent that it relates to the period where the property was occupied as a main residence and also for the final period. From 6 April 2020 this is the last nine months of ownership (reduced from 18 months prior to that date).

Curtailment of lettings relief

Where the disposal takes place on or after 6 April 2020, lettings relief is only available where the landlord occupies the property with the tenant (for example, by letting out a number of rooms in the landlord's main residence).

The previous, more generous rules, do not apply where disposal is on or after 6 April 2020 even if the property was let out prior to that date and would have qualified for lettings relief under the old rules – it is the date of disposal that is relevant in determining which rules apply, not the period for which the property was let.

No gain, no loss transfers

The capital gains tax rules allow assets to be transferred between spouses and civil partners at a value which gives rise to neither a gain nor a loss. This can be very useful in mitigating the capital gains tax liability, particularly where a spouse or civil partner has not used their annual exempt amount or pays tax at a lower marginal rate. The optimal ownership shares will depend on individual circumstances. It is prudent to review how the property is owned prior to sale.

Paying tax at the residential property rates

Capital gains tax is charged at a higher rate on residential property gains. The rate of tax is 18% to the extent that income and gains fall within the basic rate band, and at 28% thereafter.

Notifying residential property gains and paying tax on account

From 6 April 2020, chargeable gains on residential property must be notified to HMRC within 30 days of the date of completion. The gain can be notified online. Capital gains tax due on the gain must be paid within the same time frame. A return is only required where a gain arises; no return is needed if the property is sold at a loss.

HMRC have confirmed that due to coronavirus, they will not charge a penalty for transactions completed on or after 6 April and 1 July reported up to 31 July 2020 which are reported outside the 30-day window. However, a late filing penalty will be charged for transactions which are completed on or after 1 July 2020 if these are not reported within 30 days.

Interest is charged where tax is paid late. This applies where the completion date is on or after 6 April 2020 – there is no relaxation in respect of Coronavirus.

In working out the capital gains tax on residential property gains, the annual exempt amount can be taken into account, as can any allowable losses brought forward or realised prior to the disposal. However, losses arising after the disposal cannot be taken into account, even if these are realised in the 30-day window for filing the return and making the payment on account.

The taxpayers overall capital gains tax position for the year is finalised when filing the self-assessment return.