CPH Accountancy

Chartered Accountants & Advisors

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Thinking of Letting A Property - What Happens When You Sell?

You pay significantly less tax when selling a rental property, in which you have lived at some stage, compared to an investment property which you have never occupied.

This is due to a very valuable tax relief called Principal Private Residence (PPR) relief which is only available to properties once occupied as your only or main residence.

Many of us benefit from PPR relief without realising it; it is the reason you don't pay any tax when you sell your home. Any financial gain on disposal would qualify for PPR relief and be exempt from Capital Gains Tax (CGT).

PPR relief is not available on rental properties in which you have never been resident. When you sell a rental property in which you were once resident however, you will be entitled to some, if not all, of the relief.

The amount of PPR relief to which you are entitled will depend largely on how long you lived in the property as a proportion of the period of ownership. However, HMRC also give you the final 36 months. These last 3 years of ownership are always treated as occupied for the purposes of the relief, regardless of whether the taxpayer is resident during this time.

PPR is further boosted by an extra exemption available on residential properties, once occupied by the owner, known as Lettings Relief. The level of Lettings Relief is the lower of the gain in the letting period, the part of the gain covered by PPR relief and £40,000. This relief is per person so a jointly owned property would qualify for a maximum relief of £80,000.

One final point to be aware of: the owner of more than one property can elect which one to treat as the only or main residence for the purposes of PPR relief, although you must have actually lived in the property at some time. If the taxpayer fails to make an election within 2 years of the change in ownership, HMRC will make the election for them. The decision will have implications on the PPR relief available on the properties so you should consider seeking professional advice before making such an election.

This is a complicated area of tax and while it is worthwhile knowing the general concepts, you should always seek professional advice. If you are considering renting out your home or selling a rental/investment property, contact Collette Hearn for a financial risk assessment including a Capital Gains Tax scenario analysis.

If you lived in the rental property as your only or main residence at some stage, you will be entitled to PPR and Lettings Relief when you sell.

Appealing against a penalty from HMRC

If you file a tax return late, HMRC will issue a penalty automatically. But these penalties may not be chargeable if you have a reasonable excuse for being late.

What counts as reasonable?

According to HMRC, a reasonable excuse is when some unforeseeable or unusual event beyond your control has prevented you from filing your return online giving the following examples:

- A failure in the HMRC computer system
- Your computer breaks down just before or during the preparation of your online return
- A serious illness, disability or serious mental health conditions has rendered you incapable

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Extracting Cash from your Company – Directors' Loans

Although a company is a distinct legal entity from its directors, the relationship can be blurred particularly in family run companies. You should remember that company money is distinct and separate from your own. You can only take money from your company as a salary, dividend or to reimburse legitimate business expenses or as a loan. This is one of the biggest differences between operating as a company or a sole trader; there is no legal difference between the money belonging to the business of a sole trader and his/her own funds.

If you take money from your company which isn't salary, a dividend or the reimbursement of

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Appealing against a Penalty from HMRC

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- You registered for HMRC online services but didn't get your Activation Code in time.

Each case is unique and is reviewed on its merits however one of the problems with appeals on this basis is that "reasonable excuse" is a subjective test, rather than objective, leading to inconsistencies in the interpretation. It is worth bearing in mind that Tax Tribunals have taken a more lenient view than HMRC on this in the past.

What to do if you want to appeal?

You should be not afraid to challenge HMRC over a "reasonable excuse". If you disagree with a penalty, you should appeal to HMRC in writing, normally within 30 days of the date of the decision you disagree with.

If your appeal is unsuccessful, then the next step is to ask for an internal review of the decision. This will always be undertaken by an officer who was not involved in the original case but it is advisable to also ask that this is carried out in a separate office by someone trained in such reviews. This process is usually completed within 14 days.

If you're still not happy with the outcome, ask for the appeal against the penalty to be considered by a Tax Tribunal, an independent review body. People are afraid that the costs of going to the tax tribunal will be prohibitive but appeals against penalties are often settled on the basis of written submissions by HMRC and the tax payer and do not go to court.

Pay now or later?

Interest will continue to accrue on any penalties or unpaid tax while the appeals process is on-going. You can limit the interest accruing by paying the full amount due. If the appeal is successful and HMRC owes you money, you will be repaid the difference with interest.

Extracting Cash from Your Company – Directors' Loans

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expenses incurred, it is known as a director's loan. You and the company may have to pay tax on the amount.

You should familiarise yourself with the rules regarding directors' loans so that you don't end up owing tax unnecessarily:

- Try to keep the loan below £5,000. If you owe your company more than £5,000 at any time, the loan is classed as a benefit in kind and you may have to pay National Insurance on the amount. If you pay interest on the loan under the 'official rate' you must report it on your Self Assessment Income Tax return and you may have to pay tax on the 'missing interest'.
- Repay the loan within 9 months and 1 day of the company's financial year-end. If you don't, the company must pay 25% of the value of the loan as Corporation Tax and HMRC will charge the company interest on the amount still owed. Once the loan is repaid the company can claim back any Corporation Tax paid on the loan.

Directors' loan accounts often feature highly in HMRC's compliance checks as the scope for error and fraud is high. Problems can arise where the company's funds are used to meet private expenses of the directors/shareholders and these amounts are not properly identified or treated.

Any non-business expenditure reimbursed or paid by the company should be charged either to the director's loan account or disclosed on the return of benefits and expenses (P11D) and taxed on the director accordingly. Personal bills paid by the company (e.g. credit card bills) that are not part of the remuneration package should also be charged to the director's loan account.

As always, good record keeping is essential. Poorly kept records can mean that information provided is not accurate. This may result in non-business expenditure being incorrectly recorded or misposted and claimed in error as an allowable expense. Conversely justifiable expenditure incurred by the directors may not be claimed or claimed incorrectly.

If you have any questions about the optimum way to extract cash from your company, contact Collette Hearn for a review of your remuneration strategy.

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Familiarise yourself with the rules so that you don't end up owing tax unnecessarily.

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Contact Collette Hearn BSc ACA for a free consultation

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