

Curtailment of letting relief

Introduction

Landlords have been hit with a number of tax hikes in recent years, and this trend shows no signs of abating. From 6 April 2020, lettings relief – a valuable capital gains tax relief which is available where a property which has at some point been the owner's only or main residence is let out – is seriously curtailed.



Now

Under the current rules letting relief applies to shelter part of the gain arising on the sale of a property which has been let out as residential accommodation and which at some time was the owner's only or main residence. The amount of the letting relief is the lowest of the following three amounts:

- the amount of private residence relief available on the disposal;
- £40,000; and
- the gain attributable to the letting.

Under the current rules, periods of residential letting count regardless of whether or not the landlord also lives in the property.

From 6 April 2020

From 6 April 2020, letting relief will only be available where the owner of the property shares occupancy with a

tenant. From that date, lettings relief is available where at some point the owner of the property lets out part of their main residence as residential accommodation and shares occupation of that residence with an individual who has no interest in the residence.

To the extent that a gain that would otherwise be chargeable to capital gains tax because it relates to the part of the main residence which is let out as residential accommodation, the availability of lettings relief means that it is only chargeable to capital gains tax to the extent that it exceeds the lower of:

- the amount of the gain sheltered by private residence relief; and
- £40,000.

Example 1

Tom owns a property which he lives in as his main residence. He lived in it for a year on his own, then to help pay the bills he let out 40% as residential accommodation.

In June 2020 he sells the property realising a gain of £189,000. He had owned the property for five years and three months (63 months).

The final nine months of ownership are covered by the final period exemption – this equates to £27,000.

For the remaining 54 months, private residence relief is available for the first 12 months and 40% of the remaining 48 months – a total of 31.2 months ($12 + (40\% \times 48)$). This is worth £93,600. ($31.2/63 \times £189,000$).

Private residence relief in total is worth £120,600 (£27,000 + £93,600).

The gain attributable to the letting is £68,400 (£189,000 - £120,600). This is taxable to the extent that it exceeds £40,000 (being the lower of £40,000 and £120,600).

Thus the letting relief is worth £40,000 and the chargeable gain is £28,400.

Example 2

Lucy buys a flat for £300,000 which she lives in for one year as her main residence. She then buys a new home

which she lives in as her main residence and lets the flat out for three years, before selling it and realising a gain of £96,000.

If she sells it before 6 April 2020, she will be entitled to private residence relief of £60,000 ($30/48 \times £96,000$). The final 18 months are exempt as she lived in the flat for 12 months as her main residence. The gain attributable to letting is £36,000, all of which is sheltered by lettings relief (as less than both private residence relief and £40,000).

If she sells the property after 6 April 2020, the final period exemption only covers the last nine months, reducing the private residence relief to £42,000 ($21/48 \times £96,000$). The remainder of the gain of £54,000, which is attributable to the letting, is chargeable to capital gains tax as letting relief is no longer available as Lucy does not share her home with the tenant.

Information to readers

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Recommendation

Consider realising a gain on a let property which has also been a main residence prior to 6 April 2020 to take advantage of the letting relief available prior to that date where a landlord does not share the accommodation with the tenant. Taking professional advice will help to quantify the benefit and assess with your long term property strategy

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