

Capital Gains Tax Returns - Client Guide

60 days deadline | Second homes & BTLs | Get tax advice

What is Capital Gains Tax?

Capital Gains Tax may be payable on 'Chargeable Gains' made on some sales or disposals of residential property. Gains are taxed for a "year of assessment". Each year of assessment starts on 6 April and finishes on 5 April in the following year.

There are special rules for anyone who is not resident in the UK, companies, personal representatives and trustees. You will need to get specialist tax advice if this applies to your situation.

Rates of CGT

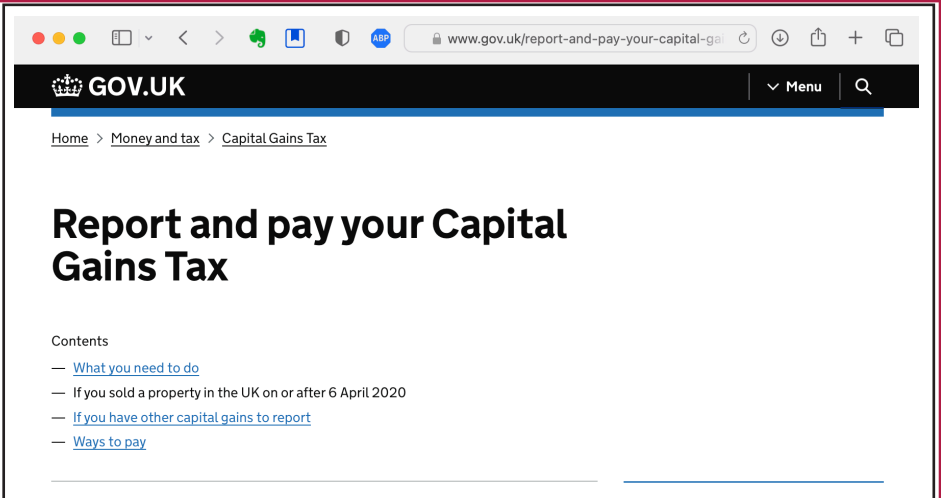
The normal rate of CGT is 10% for basic rate taxpayers and 20% for higher or additional rate taxpayers. However, generally gains arising on disposals of residential property that do not qualify for Principal Residence Relief will be liable to tax at the "upper rates, which are 18% (basic rate payers) and 28% (higher or additional rate payers).

Payment of tax

Generally, CGT must be paid on or before 31 January following the year of assessment in which the gain accrues. This is subject to the rules requiring payment of an estimate of the tax due within 60 days of a disposal of UK residential property or a disposal of UK land and buildings by a non-UK resident.

This note is not tax advice

This note does not constitute advice and is for the purposes of general illustration only. Each situation will be different and will need specific tax advice.



The screenshot shows the GOV.UK website page for 'Report and pay your Capital Gains Tax'. The page includes a navigation menu with 'Home', 'Money and tax', and 'Capital Gains Tax'. The main heading is 'Report and pay your Capital Gains Tax'. Below the heading, there is a 'Contents' section with links to 'What you need to do', 'If you sold a property in the UK on or after 6 April 2020', 'If you have other capital gains to report', and 'Ways to pay'.

CGT Returns - your 60 days deadline

The government's tax office (HMRC) has asked conveyancers to remind clients who are selling a property that **in some cases** the seller must submit a tax returns and pay an estimate of the CGT tax payable on the sale within 60 days of their disposal of certain UK residential property. A tax return may also be needed and CGT may be payable on any sale, gift, or transfer of all or any part of your interest in a property.

There are different rules where a property is held by a company and also where the seller is a non-UK resident. In some cases sellers may have to file a return even if there is no tax to pay or even where they have made a loss.

You may have to pay interest and a penalty if you do not file a tax return when it was needed or you if you fail to pay any tax due by the deadline.

Mainly only Second Properties, Estates & 'Buy-To-Lets'

Most normal sales of residential property will not be subject to CGT however, and there will be no need to file a return within the 60 days period. In general, a return may be needed and CGT may be payable if you cannot claim '**Principal Residence Relief**' (PRR) on a property you are selling, even if it is the only property you own.

If you are selling a **buy-to-let or a second property, land or an inherited property** then a return may be needed and CGT may be payable within the 60 days deadline.

Get tax advice before you decide to sell

If you are selling a buy-to-let property, an inherited property or a second home we suggest you obtain specialist tax advice well in advance of putting the property on the market. The tax adviser may suggest, for example, that it may be possible for you to arrange things to allow you to take advantage of Principal Residence Relief to reduce your tax bill by moving into the property for a short time.

Special cases - large gardens and grounds

There are special rules about large gardens and grounds that are part of the property being sold, and also where a property is held on trust, or owned jointly with a spouse or another party. Specialist tax advice may be necessary here too.



Other complex PRR issues

CGT is a complex tax and how you deal with it on the sale of one property may affect the CGT payable on the eventual sale of other property that you own.

For example, if you have more than one property and decide to move from your main residence into your rental property to allow you to claim PRR before selling the rental property, this could mean that CGT may be payable on part of the ultimate sale proceeds of your main property.

Even if you only have one property, PRR can be complex. For example, if you did not move into your property immediately when you bought it but resided somewhere else whilst the new property was renovated, you may still have to pay some CGT on its eventual sale.

Spouses and civil partners can only have one PRR between them. There are also complex rules concerning divorce or separation.

Getting tax advice

We suggest that you seek advice from a chartered or certified accountant who deals with Income Tax and Capital Gains Tax returns as part of their normal business.

If you are already using an accountant for your personal or business tax affairs we suggest that you contact them initially as they will presumably be aware of your overall financial and tax situation. If they are unable to assist you then they should be able to refer you to someone who can advise you.

Be aware that simply searching for and reading articles on the internet may result in you taking the wrong steps, and may result in you paying more tax or penalties and interest to HMRC.

The Society of Licensed Conveyancers



We are not tax advisers

We cannot advise on CGT as part of dealing with your sale and we will not submit CGT returns for you. Dealing with Capital Gains Tax has never been part of the service provided by conveyancers. You should obtain specialist tax advice from a suitable accountant or other tax adviser.

The filing of this CGT return is not connected with your purchaser's filing of a Stamp Duty Land Tax return (or Land Transaction Tax return in Wales) on their purchase of the property. There are different rules and definitions for each tax.

CGT & Principal Residence Relief (PRR)

In general, Principal Residence Relief (PRR) may be available for individuals on the disposal of an individual's only or main residence. It is potentially a very valuable relief because, where the conditions are met, all (or part) of the gain arising on the disposal of an individual's main residence is exempt from CGT.

The relief is available for individuals, trustees, and personal representatives of a deceased owner. It is not available where the property is owned by a company.

In general PRR is available where a dwelling-house (or part of a dwelling-house) has been an individual's only or main residence at some time during their period of ownership. If you have more than one property you can nominate which one will be eligible for PRR, and you can change this nomination. The rules are complex and you will need specialist tax advice to help you to decide what to do.

PRR - Automatic exemption for the last 9 months

It is worth noting that in general, provided the dwelling-house has qualified for PRR at some point during the individual's period of ownership, the last 9 months always qualifies for the relief. HMRC calls this the "final period exemption". This is the case even if it is no longer the individual's only or main residence (for example, because it is let out).

PRR - 36 month exemption in special cases

The final period exemption is extended to 36 months if the individual, or their spouse or civil partner, is a disabled person or is resident in a care home for at least three months, provided that the individual (and their spouse or civil partner if relevant) has no other property on which they can claim PRR and is not entitled to occupy another property on which trustees can claim PRR.

Are you a UK Resident?

Under the Capital Gains Tax regime, from 6 April 2013, taxpayers are taxed on any chargeable gains arising in a year of assessment in the following circumstances:

- In the case of individuals, the individual is UK resident for that year.
- In the case of a single and continuing body of personal representatives of a deceased person, that body is resident in the UK.
- In the case of a trustee of a settlement, the trustee is UK resident during any part of the year.
- In any other case, the taxpayer is resident in the UK when the gain accrues.

(Before 6 April 2013, taxpayers were taxed on gains arising in a year of assessment during any part of which they were resident or ordinarily resident.)

Special rules apply to UK residents who become temporarily non-UK resident, and if you think this might apply to you then you should obtain specialist tax advice.