

CAPITAL GAINS TAX FOR NON-RESIDENTS SELLING OR GIFTING YOUR UK LAND OR PROPERTY

Introduction

If you are not resident in the UK for tax purposes and you sell or gift any property located in the UK, you are required to report details of the disposal to HMRC within 30 days of completing the sale of the property. In addition, if the disposal gives rise to a tax liability, you must pay this at the same time.

Who is affected?

The Non-Resident Capital Gains Tax (NRCGT) rules apply to the sale of UK property and certain shareholdings made by non-resident individuals and trustees and by the personal representatives of a deceased individual who was non-resident. The rules do not apply to non-resident companies which are, instead, subject to the corporation tax regime.

What transactions are affected?

The NRCGT rules apply if you sell or gift any UK land or property (including residential and commercial property, agricultural property and woodlands).

They may also apply if you make a disposal of shares in a company which derives more than 75% of its gross asset value from UK land. This only applies if you (and certain related parties) own at least 25% of the company's shares at the time of disposal or at any time in the two years before the disposal. The rules are complex and you should seek advice if you think they might apply to you.

The way in which the taxable gain is calculated is different for residential property and other types of property:

- For UK residential property, it is only the post-April 2015 part of the gain that is charged to NRCGT. The overall gain is usually allocated between the pre and post-April 2015 periods of ownership by "rebasings" the property using its market value on 5 April 2015. However, it is possible to elect for alternative methods of allocating the gain if these are more beneficial.
- For all other types of property, it is the post-April 2019 part of the gain that is chargeable to NRCGT. Again, the overall gain is allocated between the pre and post-April 2019 periods of ownership by rebasing the property but, in this case, using its market value at 5 April 2019.

What are the applicable tax rates?

For individuals, NRCGT will be charged at 10% or 20% for non-residential property, and at 18% or 28% for residential property, depending on their marginal rate of tax. For trustees, the rates are 20% for non-residential property and 28% for residential property.

Principal Private Residence Relief

The sale of your UK residential property may qualify for an element of Principal Private Residence Relief. However, since 5 April 2015, your UK property will only be able to qualify as your main residence for a particular tax year if either:

- You or your spouse or civil partner was UK resident for that tax year; or
- You or your spouse or civil partner stayed in the UK property on at least 90 nights during the tax year.

If the UK residential property was occupied as your main residence at any time before 5 April 2015, the final 9 months of ownership will qualify for the relief in the usual way.

Tax Obligations

As a non-resident, if you sell or gift any UK property you must:

- report details of each disposal to HMRC; and
- pay any tax due

within 30 days of the date of completion.

You must file a return even if the disposal does not give rise to a UK tax liability or, indeed, even if it gives rise to a loss. The only exceptions are for transfers between spouses and civil partners and gifts to charity.

Penalties and Interest

Failure to comply with these obligations may result in the imposition of interest and penalties.

HMRC may charge the following penalties for late filing:

Return filed late	£100 fixed penalty
More than 3 months late	Daily penalty of £10 for a maximum of 90 days
More than 6 months late	Higher of 5% of capital gains tax liability and £300

HMRC can also impose penalties and interest for late payment of the tax due.