sakura

DISPOSED OF ANY PROPERTY RECENTLY ? YOU HAVE 30 DAYS TO PAY ANY TAX TO HMRC !

BACKGROUND

The rules around gains on the disposal of UK property for individuals i.e. especially when sold for more than it was originally purchased - **have changed significantly from 2020 onwards !**

The requirements around the notification of property transactions, the **'profits'** or gains made on the sale or disposal, and therefore the payment of any taxes to HMRC, **changed in April 2020,** and mean that a return and payment requires to be made very quickly after the completion of the sale transaction i.e. **within 30 days !**

Previously landlords and second-home owners included any **'profits'** or gains as part of their Self Assessment tax return at the end of the tax year, giving them, in some cases, more than 12 months before being required to submit the details and make any tax payment.

When the legislation was originally introduced, HMRC adopted a '**soft touch'** by waiving £100 late filing penalty(ies) however this approach has been changed since 31st July 2020, with the situation now meaning that it is topical for us and our clients now, given that in the last six months of 2020, HMRC sent out 13,113 late filing penalties to landlords and tax payers who missed the 30 day rule.

These penalties have grossed HMRC over £1.3m in the last six months of 2020, and it appears to be due to a lack of knowledge of these recent changes – **and as an accountant if we are unaware of where a property has occurred, then we cannot of course ensure that the submission to HMRC is made on time !**

KEY ISSUES

Therefore for all **UK resident individuals who dispose of UK residential property**, it is important to remember that you must now report the transaction and **pay any capital gains tax (CGT) due to HMRC within 30-days using the HMRC online services (and the Government gateway ID**) , except for the following circumstances

1. the disposal is an '**excluded disposal'**
2. the person is not required to make a payment on account of their CGT liability e.g. any gain is covered by private residence relief, losses incurred on or before the disposal, or the CGT annual exempt amount covers the gain etc.
3. the person has submitted or is due to submit, prior to the filing deadline for the return, a self-assessment return which takes into account the disposal; or
4. the disposal has an appropriate connection to a collective investment scheme and no amount is due to be paid on account.

- **'Excluded disposals'** are:

    - no gain/no loss disposals;
    - disposals which are the grant of an arm's length lease for no premium to a person unconnected with the grantor;
    - disposals by charities; or
    - disposals of any pension scheme investments.

What this means in practice is that the reporting changes do **NOT** apply to individuals who are selling (or disposing) **their main residence**, however where they are **disposing of a second property or flat**, then it DOES apply in those circumstances !

OTHER ISSUES

- The 30-day reporting window will make it difficult for some people to provide exact figures. The government accepts this, and the legislation allows for certain estimates and assumptions to be made.

- Anticipated future events can be taken into account when determining whether a disposal will be subject to the 30-day return rules.

- Individuals who are within self-assessment must report any residential property gain in their self-assessment returns as well.

- Those facing the fines can appeal against these penalties with HMRC considering whether they have a 'reasonable excuse' for not filing on time, on a case by case basis. HMRC will also consider Covid-19 as a reasonable excuse for missing some tax obligations such as payments or filing dates.

- Others that need to be very much aware of the issue are buy-to-let investors or owners of multiple properties

- They completed their returns within 30 days, each making payment of their share of the taxes due to avoid a penalty. In the event, it turned out that the taxpayers had been too cautious and had overpaid CGT. However, once their income figures were finalised, they had to pay more income tax and national insurance.

- Payments and liabilities will be set off against each other, and tax repayments generated where appropriate. So, in this hypothetical example, what happened to the overpaid CGT?

- It is now emerging that, in these circumstances, HMRC is insisting that the additional income tax and national insurance liabilities must be paid in full. The overpayment of CGT can only be reclaimed by submitting an amended CGT return online.

Contact us if you have any queries around CGT or other tax issues risks that may be applicable to your business. Contact us on 0207 952 1230 or damian@sakurabusiness.co.uk