

Disposals made by non-UK residents of UK property and certain UK property rich companies

What are your reporting obligations?



Recent changes to tax regimes that impact the sale of UK property

Since 6th April 2019, the scopes of UK Capital Gains Tax (“CGT”) and UK Corporation Tax (“UKCT”) have been extended to now include gains realised by non-UK residents on both direct sales of UK property, and on the sale of interests held in companies which are deemed to be ‘UK property rich.’

What does this mean for non-UK persons and companies?

This extension now applies to the following scenarios:

1. Direct property holdings

- Where a non-UK resident individual, company, or trust disposes of UK property which they own – whether the property is residential, or commercial.
- Where commercial holdings have seen an increase in value since 6 April 2019, UK tax applies on the gain. For residential holdings, the taxable gain is calculated from 6 April 2015.

2. Indirect property holdings

- If such a non UK resident sells an interest in a ‘UK property rich’ company (defined as 75% or more of the company’s value deriving from UK property), then any increase in value of the interest since 6 April 2019 is taxable.
- This includes ‘indirect holdings’ of property rich companies, where the disposal could be of an interest held in a parent or holding company, where its subsidiary(s) in turn hold UK property.
- The non-resident (combined with any related parties) must hold, or at some point in the previous two years, have held at least a 25% interest in the property rich company. Otherwise, the rules do not apply.

Note however that the 25% test does not apply to holdings in ‘Collective Investment Vehicles’ (“CIVs”). Thus disposals of any interest, even where it is less than 25%, will be UK taxable where the interest held is in a CIV.

The definition of CIV includes (a) UK REITs, (b) AIFs, (c) a collective investment scheme, and (d) certain other non-UK companies which, (i) derive over half their income from long term property investment, (ii) distributes substantially all of its income annually, and (iii) is not subject to any tax on its income.

The exemptions to these rules

There can be an exemption if the property rich company (or a related party) uses the property in a qualifying UK trade (e.g. hotel, care home, retail etc.). It must be shown that the trade was carried on for at least a year prior to disposal, and that it will continue to be carried on after sale.

There is also an exemption for certain ‘linked disposals’. This may apply where a disposal of an interest in a property rich company takes place, and that disposal is linked to others that occur at the same time, where the combined value of the interests being sold result in the total value of UK property falling below the 75% threshold.



Calculating the gains

Below is an overview of how the gains are calculated and taxed, if the rules apply:

- UK gains will be calculated using the market value of the property/interest as at 5th April 2015 or 2019 (depending on the type of asset sold, as noted above.) This is the base cost that will normally be deductible against sale proceeds.
- There is the option to use the actual cost of the property/interest, rather than a later market value, if this provides a better result in the calculation.
- Non-UK resident companies will pay UK CT at the applicable rate. This is currently 19%.
- Non-UK resident individuals and trustees will pay CGT at between 10% and 28%, depending on (a) whether they fall into the band of being a basic or higher rate UK tax payer and (b) whether the property is residential or commercial.

Reporting and payment obligations

Where the seller is an individual or trust, there will be a requirement to report the disposal to HMRC, and pay any CGT due, within 30 days of the disposal.

Where the seller is a company, it will have to register with HMRC within 90 days of making the disposal. It then needs to file a UK CT return, electronically, within one year of disposal. Payment of UKCT is normally due 3 months and 14 days following the disposal. Different filing and payment dates can apply if there are multiple disposals in a year.

Penalties and interest can apply if the necessary reporting or tax payments are made late.

How can we help?

If you believe you may be affected by these rules, and wish to discuss them further, please do not hesitate to get in touch with your usual contact, or alternatively you can contact our dedicated UK tax specialists, Andy Shaw or Neil Hoolahan.



Andy Shaw
Senior Manager, Tax, Jersey

T + 44 1534 885 704
E andy.shaw@gt-ci.com



Neil Hoolahan
Director, Tax, Guernsey

T + 44 1481 753 419
E neil.hoolahan@gt-ci.com



[grantthorntonci.com](https://www.grantthorntonci.com)

© 2020 Grant Thornton Limited. All rights reserved.

'Grant Thornton' refers to the brand under which the Grant Thornton member firms provide assurance, tax and advisory services to their clients and/or refers to one or more member firms, as the context requires. Grant Thornton International Ltd (GTIL) and the member firms are not a worldwide partnership. GTIL and each member firm is a separate legal entity. Services are delivered by the member firms. GTIL does not provide services to clients. GTIL and its member firms are not agents of, and do not obligate, one another and are not liable for one another's acts or omissions.