Capital gains tax: 30-day reporting and payment

Personal tax

07 January 2021

In response to feedback from members, the CIOT has raised a number of issues recently relating to the functionality of the capital gains tax reporting service and the related guidance on GOV.UK with the Office of Tax Simplification, as part of their CGT review, and directly with HMRC.

Payment reference

Members have reported some confusion over the instructions for which payment reference to use when making payment. HMRC have provided the CIOT with clarification which can be viewed at: www.tax.org.uk/CGT30days. The important thing to note is that if the user quotes the capital gains tax (CGT) account reference number or the payment reference number, the payment will be allocated to their account. The user should be able to view their payment on the dashboard in three to five working days once the payment has cleared.

No UTR/National Insurance number

The way in which non-UK residents without a national insurance number or a UTR, who cannot therefore set up a Government Gateway account, need to register to report and pay is not very obvious or accessible. The CIOT website highlighted the relevant steps and screens (see www.tax.org.uk/report_pay_CGT). However, we think this pathway needs to be signalled more clearly in the GOV.UK guidance.

Government Gateway account: unable to complete verification To register with the 30-day reporting service, a user has first to set up a Government Gateway account (unless they do not have a National Insurance number or a UTR, in which case they can use the alternative route mentioned above). However, a taxpayer who does not have a UK passport or credit history may encounter difficulties completing the verification process and therefore the only route left to register for the CGT reporting

service is to request a paper form.

Enquiry period

Where an individual is not in self-assessment, the window for HMRC to enquire into a 30-day return is based on treating the return as having been filed on 31 January following the year of assessment in which the disposal takes place (unless the CGT return was submitted after that date). For example, an individual sells a property on 6 April 2021 reporting the disposal before 5 May 2021. The individual does not need to file a self-assessment tax return. The enquiry window is open until 31 January 2024, two years and nine months after the CGT initial filing. This is in contrast for someone in self-assessment for whom the enquiry window ends 12 months after the submission of the self-assessment tax return. We have suggested reference is made in the GOV.UK guidance to the enquiry period and the need to retain records for the extended period.

Indirect disposals

We have pointed out that the guidance for indirect disposals (see tinyurl.com/y4w3pqhd) provides very little to help the non-UK resident investor in a property rich fund who may have little other contact with the UK tax system. In fact, the reference to the 25% de minimis for indirect holdings, without qualification, might mislead them into thinking there is no need to report. We suggested that at least a link should be included in the GOV.UK guidance to more detailed guidance for non-residents disposing of interests in property rich funds to increase awareness.

Guidance

The guidance on GOV.UK has been helpfully expanded recently. For example, guidance on submitting an estimated return if you are waiting on a CG34 valuation to meet the 30 day filing requirement (see tinyurl.com/y5uzyfg3) has been included. However gaps remain; for example, we think it would be helpful to make clear the 30-day reporting obligations on the disposal of mixed property (a disposal of one asset consisting of residential and non-residential elements) differs for UK residents and non-UK residents. Currently, the guidance refers only to non-residents and mixed property.