UK Property Reporting Service: ongoing issues

Management of taxes | Personal tax

21 June 2022

ATT and CIOT are continuing to meet with HMRC to raise concerns and issues affecting the UK Property Reporting Service.

In May, ATT and CIOT representatives met with HMRC to discuss ongoing issues with the operation of the UK Property Reporting Service. This is used for '60-day reporting' in which returns of certain property disposals are reported and the capital gains tax (CGT) is paid shortly after completion. Although the service went live in April 2020, there remain several matters that need to be addressed.Interaction with self-assessment

For those in self-assessment, details of any gains reported in-year via the UK Property Reporting Service on a 'property return' – together with the amount of tax due – must be included on the self-assessment return to enable the taxpayer's CGT position for the year to be finalised. However, as the property service is a separate, standalone system, the interaction with self-assessment is not always seamless, with particular problems arising if the CGT paid in-year on a property return is subsequently found to be too great. This results in what is referred to in HMRC's manuals as an 'initial overpayment'.

HMRC have made some changes to the 2021/22 self-assessment (SA) return, so that if on completion of the SA return, too much CGT was paid in-year via the property return, the 'initial overpayment' can first be offset against other SA liabilities. If there is still an overpayment remaining after that offset then, once the SA return has been submitted, the agent or taxpayer will still have to ring HMRC's helpline to arrange a refund of the overpaid CGT, as no refunds will be issued automatically via SA. Only those who are eligible to amend their property return (prior to submitting their SA return) will get an automatic refund of in-year initial overpayments – and

even then only if they paid by direct debit. This is a modest improvement to 2020/21, when no offset at all was possible at all without contacting HMRC.

The other major concern, which we raised with HMRC in January, is what to do when a client has not filed the property return, but has reported the disposal via their SA return instead. HMRC confirmed in Agent Update 95 in April 2022 that the property return should be done (even if late) *before* an SA return is submitted. Where the property return is submitted late via the UK Property Reporting Service, it has been reported to us that late filing penalties will appear within 24 hours. However, it is still not clear what an agent should do when they come across taxpayers where only an SA return has been submitted, as the UK Property Reporting Service does not permit property returns to be filed after submission of the SA return, but the obligation to do so remains outstanding. Obviously, there needs to be fair treatment in respect of penalties but HMRC have not yet reached a conclusion on this point.

Agent Authority

Several members have asked for a separate authorisation section on the paper property return (form PPDCGT) for cases where they are not the main agent but only engaged for the 60-day CGT property service reporting. It is not possible to use a 64-8 in these circumstances, as this would replace the main agent's authority. HMRC are considering whether this might be possible.

New manual location and structure

At the end of last year, HMRC added some guidance to their CGT manuals as an appendix 18. This guidance has now been moved to a new home (tinyurl.com/2p8v9etk) and the sections split into separate pages, so that it is similar in form to the rest of the manuals. Some administrative changes will be made to the previous structure of appendix 18 to match the usual manual format, but we understand that the guidance itself is substantively unchanged.

We have raised a point of uncertainty in relation to brought forward capital losses. At paragraph 2.5.1 Enter losses and exemptions, which can be found on the new page CG-APP18-250, the guidance says: 'If the person has capital losses from an earlier year which have been notified to HMRC or are otherwise available, the user can bring those losses in here.' This might be read as saying that losses must be notified to claim them in the property return. However, under FA 2019 Schedule 2

para 14(2), claims are deemed to have been made if they are reasonably expected to be claimed so if the self-assessment return is still in progress and available losses are known, the legislation allows the losses to be taken into account even if not notified. It is understood that HMRC think this is recognised by the reference to 'otherwise available'.

Digitally excluded taxpayers

We are expecting news from HMRC of a route for digitally excluded taxpayers to be assisted via HMRC over the phone to set up an online UK Property Reporting Service account, to which the agent can then be granted access. We will update members via the usual routes when we hear more.

We are next meeting with HMRC on 20 July. If you have any comments or concerns you would like us to raise, please get in touch with us directly or via atttechnical@att.org.uk or technical@ciot.org.uk.

Helen Thornley *hthornley@att.org.uk*

Kate Willis *kwillis@ciot.org.uk*