



HM Revenue
& Customs

**Capital Gains Tax for non-UK residents:
sales and disposals of UK residential property**

Frequently Asked Questions
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From 6 April 2015, if you're not resident in the UK and sell a UK residential property you'll need to let HMRC know. You may also have to pay Capital Gains Tax on the gains you make.

The new rules will affect:

- **non-resident individuals**
- **non-resident trustees**
- **personal representatives of non-resident deceased persons**
- **certain non-resident companies (generally those controlled by 5 or less persons)**
- **some UK resident individuals disposing of UK property when abroad**
- **any of the above who are partners in a partnership**

Chapter 1

Non-Resident Capital Gains Tax (NRCGT) and UK residential property – Frequently Asked Questions

Q1 What is the current CGT position for non-UK residents?

A1 In most cases non-UK residents pay no CGT in the UK when disposing of a UK residential property, although they may pay CGT or an equivalent tax in their country of residence. As an exception, where the Annual Tax on Enveloped Dwellings (ATED) applies in relation to a property, gains accruing on disposal of the property are chargeable to CGT (ATED-related CGT) irrespective of where the non-natural person or company making the disposal is resident.

Q2 When will the new changes come into effect?

A2 The changes will apply to disposals from 6 April 2015. There is a disposal when the contract to sell the property is agreed (often called “exchange”).

Q3 Is all of the gain chargeable to NRCGT?

A3 No. Only that proportion of the overall gain that relates to the period after 5 April 2015 is chargeable. Most people will have a choice of calculating this by either establishing the value of their property as of 5 April 2015 (known as “rebasings”) and then working out the amount of gain over that value in the normal way; or carrying out a simple straight-line time apportionment of the whole gain obtained over the period of ownership. You can also decide not to make an apportionment, particularly if you want to establish an amount of loss on a property, or if there is loss up to 5 April 2015 and you want to set that against a gain from 6 April 2015. Further apportionments are also allowed to reflect any non-residential use of the asset being disposed of.

Q4 If I rebase, will I need to get a valuation carried out in April 2015?

A4 No, you can wait until you make the disposal. It is though sensible to record in April 2015 what condition the property is in and any unusual features as this will help if you decide to obtain a valuation later on.

Q5 Can I use an estate agent’s valuation? How many valuations do I need to get?

A5 It is your responsibility to accurately value the property. Depending on the property concerned you may want to use a professional valuer or obtain more than one valuation. You can ask HMRC to check your valuation by using form CG34, however, as this process takes at least 2 months and can only be made after disposal you will need to report the disposal and pay the tax due within 30 days of the property being conveyed (see Q13 below). If necessary an amendment can be made to your NRCGT return.

- Q6 What rate of tax applies to individuals and trusts? What allowances are available?**
- A6 The rate of tax is the same as for UK resident individuals and trusts (18% or 28% for individuals, 28% for trusts) as is the availability of the annual exempt amount. The tax rate for individuals depends on the amount of taxable UK income the person has. For rates of tax applicable to companies please see Q17.
- Q7 What rate of tax applies to personal representatives of non-resident deceased persons? What allowances are available?**
- A7 The rate of tax is 28%. The annual exempt amount is available for disposals in the same tax year as the death or the following 2 tax years.
- Q8 Is private residence relief (PRR) available?**
- A8 Yes, PRR is given to the extent a property is the owner's only or main residence. From 6 April 2015 a non-resident can normally only obtain PRR on a UK residential property for a tax year for which a new occupancy test is met. For non-residents, any nomination for a UK residence to be regarded as their main residence for a given period from 6 April 2015 should be included in the NRCGT return (see Q13 below).
- Q9 What is the new PRR occupancy test?**
- A9 The test is met if you, or in combination with your spouse or civil partner (but with no night counting twice), stay overnight at the property at least 90 times during the tax year. If you own the property for only part of a year, then the number of required qualifying stays is proportionally reduced.
- Q10 My spouse/civil partner is UK resident, does that make a difference for PRR?**
- A10 Yes. The new occupancy test does not apply for any year that your spouse or civil partner is UK resident. PRR applies for that year in the normal way – relief is given to the extent that the property is your only or main residence. (See also Q8 and Q12 for nominations in favour of a UK property and other reliefs.)
- Q11 I lived in the property for 20 years before leaving the UK in 2010 and had met all the conditions for PRR up to that date. Does this mean if I sell the property by 5 October 2016 there will be no CGT liability?**
- A11 Yes. If you can identify a time prior to 6 April 2015 that the property qualified for PRR then final period relief will be available i.e. the last 18 months of ownership will be eligible for relief. Also see Q15 below.
- Q12 If my property qualified for PRR would lettings, absence or job related accommodation reliefs continue to apply?**
- A12 Yes.
- Q13 How, and by when, do I pay the new CGT charge?**
- A13 You will need to report the disposal on a NRCGT return and pay any CGT due within 30 days of the day after the date the property sale is completed (i.e. the date when title is conveyed). If you are already within the UK's self-assessment (SA) system for income tax

and CGT, you will need to report the disposal on a NRCGT return within 30 days with payment being made as part of your normal end of year tax payment or you will also have the option to pay at the time of reporting. Reporting and payment will be made electronically. More information will be available via GOV.UK after 5 April 2015 (including a link to the return form). Amendments can be made within a year of 31 January following the end of the tax year when the disposal was made (see Q2).

Q14 I already file UK Self-Assessment tax returns, do I need to report the disposal in my end of year tax return?

A14 Yes. The disposal must be reported on both the NRCGT return within 30 days of the conveyance and again on the relevant SA tax return. The relevant SA tax return is that for the year when the disposal took place (see 2.). For example, if contracts were exchanged on 31 March 2017 and the property conveyed on 1 May 2017, the relevant return is that for the tax year 6 April 2016 to 5 April 2017.

Q15 I have disposed of a property but calculated I have no CGT to pay. Do I still need to report the disposal?

A15 Yes. All disposals must be reported to HMRC irrespective of whether there is a tax liability. The same reporting process will apply regardless of whether there is a chargeable gain, a gain covered by the annual exempt amount, a gain covered by relief such as PRR or a loss. If there is more than one disposal each disposal is to be reported within 30 days of conveyance of the property. Further details will be provided shortly regarding the reporting process.

Q16 What happens if I make a loss?

A16 Losses on disposal of UK residential property will be ring-fenced for use against gains on such properties that arise to the same non-resident in the same tax year. Unused losses will be available to carry forward to later years. Where a person's residence status later changes from non-resident to UK resident any unused ring-fenced losses will be available to use as general losses against other chargeable gains. A UK resident who becomes non-resident will be able to carry forward unused UK residential property losses for use against future UK residential property gains.

Q17 Are there special rules for companies?

A17 Yes. Companies that are controlled by 5 or fewer persons are within the extended charge to CGT (excluding interests held by institutional investors or diversely held companies). The CGT rate and allowances will be similar to Corporation Tax (20% and an indexation allowance). Groups of companies will also have special rules to allow them to offset gains and losses by group members, and file returns on a consolidated basis. Where UK residential property is sold by a diversely held company, a widely marketed fund or by a life assurance company as part of its assets that provide benefits to policyholders, these entities will be able to claim exemption from the capital gains tax charge.

Q18 Do the changes affect ATED-related CGT?

A18 No. ATED-related CGT (at 28%) continues to be calculated in the normal way. Rules will ensure that the amount of gain subject to ATED-related CGT is not also subject to the new non-resident CGT charge.

Q19 I'm non-resident and sold shares in a UK company. Will I have to pay CGT?

A19 No. The extended CGT legislation only applies to disposals of UK residential property. The existing capital gains rules continue to apply and as a non-resident there will be no liability to UK CGT on disposals of shares, subject to the usual temporary non-resident rules.

Q20 I bought a UK residential property in 2001 whilst I was living abroad. I moved to the UK in December 2015 and sold the property at a gain in March 2018. Can I rebase to 5 April 2015?

A20 No. UK residents are unaffected by the changes and will be subject to CGT in the normal way i.e. chargeable on the full gain less any reliefs due along with the CG annual exemption.

Q21 Why are these changes being made?

A21 The changes have been introduced to improve the fairness of the tax system by addressing the current imbalance between the treatment of UK residents and non-residents disposing of UK residential property.

Q22 Can I apply for exemption as my country of residence will also tax me on this disposal?

A22 No. CGT on UK property is always payable in the UK. The UK tax paid may be available against any tax due to the tax authorities in your country of residence.

Q23 Where can I find further information?

A23 The government's summary of responses document outlining the decisions taken and how the CGT charge will operate can be found here

<https://www.gov.uk/government/consultations/implementing-a-capital-gains-tax-charge-on-non-residents> - Implementing a capital gains tax charge on non-residents.