

Association of Accounting Technician's response to HMRC Consultation "Capital Gains Tax: Payment Window for Residential Property gains (payment on account)"

The Association of Accounting Technicians (AAT) is pleased to have the opportunity to respond to HMRC's technical consultation "Capital Gains Tax: Payment window for residential property gains (payment on account)" published 11 April 2018.

AAT is pleased that the original April 2019 implementation date has been put back by one year. Action taken to facilitate a period of consultation is likely to result in a better legislative outcome as it provides an opportunity for operational issues to be identified and addressed.

There is a significant danger that UK residents will remain unaware of the requirement to make a CGT payment on account when they are being advised by non-UK agents on the disposals of non-UK residential property. In addition to the 30-day payment on account requirement, its interaction with Double Taxation Relief and whether taxpayers should be using the Remittance Basis need also be considered.

Proposals to cut complexity are ordinarily welcome but on this occasion, they appear to result in a reduction of the administrative burden for HMRC at the expense of the taxpayer.

Are there areas where the proposed scheme for UK residents could be improved to make it easier for taxpayers to comply and does the proposed treatment of losses on disposals of residential property and disposals of other assets strike the right balance between simplicity and fairness? If not, what alternative approach would you propose?

The definition and exclusions set out under 3.4 to 3.6 of the consultation document are satisfactory. However, for the reasons set out in the following paragraph, AAT is concerned that achieving timely compliance in respect of non-UK residential property disposals will prove problematic.

There is a significant danger that UK residents disposing of a non-UK residential property (that falls within the scope of the intended new rules and who are not supported by a UK Solicitor, or other agent) will remain unaware of the 30-day payment-on-account requirement.

A HMRC communications campaign to bring the changes to the attention of those likely to be affected might help but is unlikely to influence all off-shore advisers. This is because these advisers' knowledge is often restricted to the jurisdiction within which they operate.

Calculating a payment-on-account is likely to prove problematic where a taxpayer normally pays income tax below the basic rate ceiling because many cannot predict their precise level of taxable income until after the end of the tax-year concerned. Without such knowledge, the divide between the 18% and 28% residential rate of Capital Gains Tax cannot be established resulting in a payment on account either being under or over paid.

It is accepted that any under or overpayment will be met with an interest charge or repayment. However, there is currently a 2.5% disparity between the amount of interest payable (3%) and repayable (0.5%). This imbalance, in HMRC's favour, should be addressed by equalising the rates at 3%.

AAT notes the comment under 3.21 of the consultation document that "*in order to avoid undue complexities, adjustments will not be given for losses that arise on disposal that are not of residential property assets...*" [until after the tax-year end]. While AAT normally encourages HMRC to remove complexity, support is only given where the avoidance of complexity results in a fair outcome for the taxpayer.

In this case, the proposal outlined in 3.18 to 3.21 results in a reduction of the administrative burden for HMRC at the expense of the taxpayer. In instances of a subsequent non-residential property capital loss arising in the same tax-year, taxpayers will be left facing what could be a significant cash-flow problem. Even worse, this could lead to a lost opportunity to reinvest cash which is rightfully theirs, but is held by HMRC, only to be offered a derisory 0.5% interest pay out.

This inequity could be addressed by offering taxpayers the opportunity to apply for a refund of all or part of a payment-on-account where it can be demonstrated that a subsequent disposal gives rise to a non-residential but still relievable capital loss.

Do you have comments on the provisional table of impacts?

The table-of-impacts fails to acknowledge that the “reduction in complexity” (3.21) is achieved at the taxpayers’ expense, as outlined above.

About AAT

AAT is a professional accountancy body with approximately 50,000 full and fellow members and over 90,000 student and affiliate members worldwide. Of the full and fellow members, there are more than 4,250 licensed accountants who provide accountancy and taxation services to over 400,000 British businesses.

AAT is a registered charity whose objectives are to advance public education and promote the study of the practice, theory and techniques of accountancy and the prevention of crime and promotion of the sound administration of the law.

Further information

If you have any queries, require any further information or would like to discuss any of the above points in more detail, please contact Aleem Islan, AAT Technical Consultation Manager, at:

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