



# Capital Gains Tax for non-residents

Calculating Capital Gains Tax (CGT) can be complex. Here we answer questions and highlight a few of the factors you might need to consider.

## What assets are subject to CGT in the UK for non-residents?

If you dispose of any UK land and property, including an interest in a property-rich entity, you may be subject to UK CGT.

UK land and property include both residential and non-residential properties, for example, houses, flats, shops, offices, farmlands etc.

A property-rich entity means that at least 75% of its gross asset value is derived from UK land and property. When you dispose of an interest in such entity, i.e. shares, you may be subject to UK CGT.

## How to calculate the gain

### Residential properties

From 6 April 2015, non-residents are subject to UK CGT on disposals of residential property. There are three ways to calculate the tax:

- You can use the market value as of 5 April 2015 as the base cost to calculate the gain or loss when you dispose of the property.
- You can also use the time apportionment method, whereby you calculate the whole gain as usual and time-apportion it to exclude the days preceding 5 April 2015 on a straight-line basis.
- You can calculate the gain for the whole period of ownership. However, this method is not generally advantageous unless you've made a loss.

### Non-residential properties

From April 2019, any other UK land and property, including interests in property-rich entities, will be subject to UK CGT on disposal. The tax can be calculated in one of two ways:

- You can use the market value as of 5 April 2019 as the base cost to calculate the gain or loss when you dispose of the property.
- You can calculate the gain for the whole period of ownership. As with residential properties, this method is not generally advantageous unless you've made a loss.

The time apportionment method isn't available for CGT on land and property brought into the scope of CGT for April 2019.

For both residential and non-residential disposals, the date of exchange, rather than completion, is the tax point for assessing exemptions and rates of tax.

## Temporary non-residents

In order to prevent taxpayers becoming non-resident solely to take advantage of the non-resident CGT rules, there is an anti-avoidance policy for temporary non-residents which generally will apply in the following circumstances:

- You've been UK resident for at least four out of the seven previous tax years before leaving the UK

**and**

- You're non-UK resident for five years or fewer.

When you're caught by the temporary non-resident rules, any gains pre 6 April 2015 or 6 April 2019 are charged to UK CGT in the tax year when you return to the UK.

Usually, you'll have to pay CGT in the country where the asset is permanently located. The CGT you pay there can often be used as a credit in your country of residence, reducing the tax you owe there.

However, you should always check the relevant tax treaty to make sure.

## How to report and pay the UK CGT

As a non-resident, you must report disposals of UK property or land even if you have no tax to pay or make a loss on the disposal.

You'll need to create an online CGT account. Then, your team at Larking Gowen will calculate the CGT payable and draft the CGT return itself. Alternatively, you can post a paper return to HMRC if the online service doesn't work for you, but this can cause delays with submissions and payment.

The deadline to report and pay the CGT is 60 days from completion – HMRC will impose interest and penalties on late submissions and payment so please get in touch with us sooner rather than later if you're a non-resident thinking of disposing of UK land or property.

## Double tax relief

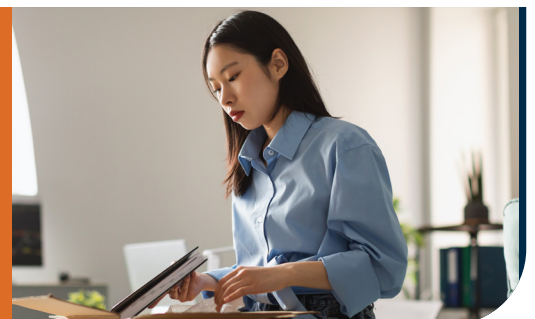
Once your residency has been established based on the Statutory Residence Test, the double taxation treaty between the UK and your new resident country should be consulted. Most countries worldwide have an agreement with the UK which provides a comprehensive breakdown of the most common types of income sources and how these are treated between the two territories.

Where a non-UK resident disposes of assets in the UK, the treaty indicates who has the right to tax the gains, whether the individual is entitled to any tax credit for amounts paid in the other territory, confirms any limitations and ultimately, acts as a mediator.

It's important to note that it's possible to have very different capital gains results in the UK and the country of residence. This is down to each country calculating its gains in line with their tax systems and their exchange rates.

## How we can help

For more information please speak to your regular contact at Larking Gowen or get in touch our international private client team on 0330 024 0888 or by emailing [enquiry@larking-gowen.co.uk](mailto:enquiry@larking-gowen.co.uk).



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