

Private residence relief

This Help Sheet explains the relief available on the disposal of your private residence. But it is only an introduction. If you are in any doubt about your circumstances you should ask your tax adviser. We will also be pleased to help. You can also consult our Capital Gains Manual, which explains the rules in more detail, at www.hmrc.gov.uk

This Help Sheet will help you fill in the *Capital gains summary* pages of your Tax Return.

How the relief works

If you dispose of:

- a dwelling-house (which can include a house, flat, houseboat or fixed caravan) which is your home, or
- part of a dwelling-house which is your home, or
- part of the garden attached to your home

you would normally have to pay Capital Gains Tax on any gain you make.

However, you will be entitled to full relief¹ where all the following conditions are met:

- the *dwelling-house* has been your *only or main residence* throughout your *period of ownership*, and
- you have not been absent, other than for an allowed period of absence from your home during your *period of ownership* or through living in *job-related accommodation*, and
- the *garden or grounds* including the buildings on them are not greater than the *permitted area*, and
- no part of your home has been used exclusively for business purposes during your period of ownership.

The terms in italics are explained from page 2. If you meet all these conditions, you will not have to pay Capital Gains Tax on the disposal¹. You will not need to complete the *Capital gains summary* pages of your Tax Return if you have made no other disposals or chargeable gains and do not wish to make any capital gains claims or elections. (See page TRG 5 of the Tax Return guide.)

If not all of the conditions are met, you may still get partial relief under certain circumstances and you will need to complete the *Capital gains summary* pages of your Tax Return. This Help Sheet describes the circumstances when you may get relief and explains how much relief you can deduct from any gain to calculate the chargeable gain.

¹ Even if you meet all these conditions, you will not get private residence relief if:

- you dispose of all or part of your garden after you have disposed of your home
- you acquire a dwelling-house and/or spend money on it in order to realise a gain on its disposal.

For example, you may have bought the house to sell it quickly at a profit or, if you were a tenant, you may have bought out the freehold in order to increase your profit on sale. In this case, you will need to provide details on your Tax Return.

What if you have made a loss on the disposal instead of a gain?

If you make a loss on the disposal of your home and you would have got private residence relief if you had made a gain, your loss will not be an allowable loss and you will not be able to offset it against any gains you have made. If you would have got partial relief, part of your loss will not be allowable and that part should be calculated in the same way as you would have calculated the partial relief if you had made a gain.

Who qualifies for relief?

Any individual is entitled to the relief on any gain arising on the disposal of his or her only or main residence. This is provided that, in calculating the amount of the gain that would be a chargeable gain if the relief did not exist, no account would have to be taken of any gifts hold-over relief obtained under Section 260 of the Taxation of Chargeable Gains Act 1992 by any person in respect of an earlier disposal. Special transitional rules that may allow some private residence relief apply where gifts hold-over relief is obtained in respect of a transfer which was made before 10 December 2003. Relief under these transitional provisions must be claimed (see 'How to claim relief' on page 8). Trustees of settled property and personal representatives may claim relief in some circumstances, as explained on page 8.

Companies are not entitled to relief.

You are entitled to relief if you own the freehold of your home or if you are a tenant owning a lease. You are also entitled to relief if you jointly own the freehold or lease with someone else.

Definition of terms

Dwelling-house

Your dwelling-house may be a single building, for example, a detached house. It may be more than one building, for example, a house with a detached garage. Or it may be part of a building, for example, a flat. If your home includes more than one building, for example, if it has several outbuildings, any relief available for your dwelling-house might not extend to all of the outbuildings.

Example 1

Your home consists of a house, a detached garage and a granny flat near the house, half an acre of garden and a summer house at the end of the garden. Your dwelling-house is the house together with the garage and the granny flat, but excluding the summer house.

Deciding which buildings make up your dwelling-house is only important if your home has a garden or grounds larger than the permitted area, see pages 5 and 6. If you have a single lodger, the rooms occupied by the lodger qualify for relief. If you have more than one lodger, or if you let part or all of your home at any time in your period of ownership, the let parts will not qualify for private residence relief. However, you may be entitled to claim letting relief which is explained on page 6.

If part of your dwelling-house is used exclusively for a trade or business, that part will not qualify for relief.

Example 2

Your house consists of a shop with your living accommodation above. You are only entitled to relief for the living accommodation. If you sell the house, you should split any gain between the gain on the shop, which may be chargeable, and the gain on the living accommodation, which will attract relief.

If you live in a fixed caravan or houseboat, you are entitled to relief in the same way as if you lived in a house or a flat.

If your home is outside the UK you may still qualify for relief.

Only or main residence

If you live in, as your home, two or more houses, you can only have one main residence at a time for private residence relief.

You can nominate which residence is to be treated as your main residence for any period. Your nomination must be made within two years of the date you first have a particular combination of residences. If there is a change in your combination of residences, a new two-year period begins. If you do not make a nomination, the question of which is your main residence will be determined on the facts.

Example 3

In June 1992 you bought a house which became your only home. In May 2008 you bought another house which you occupied as a second home. You can nominate the second home or your original home to be your main residence. Your nomination must be made by May 2010.

If you are married or in a civil partnership and you are not separated from your spouse or civil partner, you can have only one main residence between you. If, when you married or registered as civil partners, you each owned a residence and you have continued to use both residences, you can nominate jointly which is to be the main residence, and the two-year period for doing so begins on the date of marriage or registration as civil partners.

If you are separated, each of you may have a different only or main residence and each may be entitled to relief on any gains arising on the disposal of the residence(s).

Period of ownership

Your period of ownership begins on the date you first acquired the dwelling-house, or on 31 March 1982 if that is later. It ends when you dispose of it. The final 36 months of your period of ownership always qualify for relief, regardless of how you use the property in that time, as long as the dwelling-house has been your only or main residence at some point.

If the dwelling-house has not always been your only or main residence, you will need to split the gain. When calculating the proportion of the gain eligible for relief, you multiply the gain by a fraction equal to the periods of occupation (including the final 36 months where appropriate) divided by the period of ownership (both periods starting at 31 March 1982 if the house was owned before that date). You do not introduce valuations of the properties at the dates of changes of use.

Example 4

You bought your house in January 1998 and sold it in December 2008. You lived in the property as your only or main residence apart from 18 months in 2000 and 2001, when you lived in a different house. So the house qualifies for relief for 114 out of the 132 months you owned it. A proportion of any gain you make from the disposal amounting to $\frac{114}{132}$ will qualify for relief.

If you had moved out of the house at some time after December 2005 instead of in 2000 and 2001, your relief would not be restricted.

If you had bought the house before 31 March 1982, the calculation above would begin from 31 March 1982 and not from when you bought the house.

Example 5

You bought your house in February 1981 and lived in it as your only home until March 1995. You then moved to a new house which became your main home but retained the first house as a second home. It was not let. You sold the first house in March 2009.

You are entitled to relief for the period when it was your only home (counting from 31 March 1982), from March 1982 to March 1995, 156 months, plus the final 36 months of ownership, a total of 192 months. The period of ownership from 31 March 1982 is 324 months. So relief is due in the fraction $\frac{192}{324}$.

Period of absence

Some periods when you were not using the house as your only or main residence will still qualify for relief. These should be treated as periods of actual occupation when you are calculating the fraction of any gain that qualifies for relief.

If you do not occupy your new home when you acquire it because you are not able to sell your old home, or you need to carry out refurbishment, you can treat the first 12 months as if the house had been your only or main residence in that period. In exceptional circumstances, we may allow you to treat a longer period (up to a total of two years) in the same way. The same treatment applies when you buy land to build a house on.

Example 6

You bought a house in January 1987 but it needed major refurbishment and you could not move in until January 1988. Subsequently it was your only or main residence until you sold it in June 2008. You are entitled to full relief.

Certain other periods of absence from your dwelling-house may be treated as periods of residence if:

- during the period, you have no other dwelling-house eligible for relief, and
- both before and after the period there is a time when the dwelling-house is your only or main residence.

If you have another dwelling-house eligible for relief, for example a house or flat which you bought or rented as your home while absent, you will need to make a nomination in favour of the original dwelling house, if you want the period of absence to be treated as a period of residence at that house, see 'Only or main residence' on page 3.

The qualifying periods of absence are:

- a. absences for whatever reason, totalling not more than three years in all
- b. absences during which you are in employment and all your duties are carried on outside the UK

- c. absences totalling not more than four years when:
- the distance from your place of work prevents you living at home, or
 - your employer requires you to work away from home in order to do your job effectively.

You will keep the exemption for absences b. and c. if you cannot return to your dwelling-house afterwards because your existing job requires you to work away again.

Example 7

You bought a house in 1984 and used it as your only or main residence. In 1985 your employer required you to work abroad and you did not come back to the house until 1990. You lived in the house again as your only or main residence until you sold it in 2009. You are entitled to full relief.

Job-related accommodation

If you live in accommodation that is job-related and you also own a dwelling-house that you intend to occupy as your only or main residence, the dwelling-house you intend to occupy is treated as actually being occupied by you as a residence during the period in which you intend to occupy it, even if you never actually live there. This means that you may nominate that residence as your only or main residence and get relief on the whole or a part of the gain. Please see the paragraph headed 'Only or main residence' on page 3. If your intention to live in the dwelling-house ends, then the dwelling-house is no longer treated as your residence.

Accommodation is job-related if it is exempt from Income Tax for the reasons set out in Help Sheet 202 *Living accommodation*.

This extension of private residence relief also applies if you are self-employed. The job-related accommodation must be provided by another person under the terms of a contract that requires you to live in the property and carry on a particular trade. This extension only applies to residence in such accommodation on or after 6 April 1983. If you need help, ask us.

Garden or grounds

You are entitled to relief if you dispose of land that you occupy as your garden or grounds, up to the permitted area, at the time of your disposal. The garden or grounds includes the buildings standing on that land. So a building that is not part of your dwelling-house can still qualify for relief if it is within the permitted area of garden or grounds.

The garden or grounds will include any enclosed land surrounding or attached to your dwelling-house and serving chiefly for ornament or recreation. However, not all land you hold with your dwelling-house is treated as the garden or grounds of that residence. You are not entitled to relief for land let or used for a business, for example, surrounding farm land. Similarly, land which at the date of disposal has been fenced or divided off from your garden for development, or has been developed or is in the course of development (for example, excavations under way for foundations, roads, services, and so on) will not qualify.

Permitted area

If your garden and grounds do not exceed half a hectare (which is a little over 1 acre), you are entitled to relief for all of it. Look again at Example 1. The summer house was not part of the dwelling-house. But the grounds do not exceed half a hectare and so the summer house, which stands in the grounds, will still attract relief.

If your garden and grounds exceed half a hectare, you may not be entitled to relief for all of it. The area for which you are entitled to relief is called the permitted area. It consists of the area that is required for the reasonable enjoyment of your dwelling-house as a home. The size and character of your dwelling-house must be taken into account.

If your garden and grounds exceed half a hectare, and you have disposed of all or part of the garden and grounds, you should:

- enter details of the disposal and gain on pages CG 1 and CG 2, and
- explain in the 'Any other information' box, box 35, on page CG 2 of the *Capital gains summary* pages why you think, if appropriate, all or part is exempt from Capital Gains Tax.

We may ask for further details in these cases and the District Valuer will be asked to determine the size and location of the permitted area.

Letting relief

If you only get partial relief because you have let some or all of your dwelling-house as residential accommodation, you may be entitled to a further relief. This further relief is due where:

- you sell a dwelling-house which is, or has been, your only or main residence, and
- part or all of it has at some time in your period of ownership been let as residential accommodation.

The amount of relief is the lowest of:

- the amount of private residence relief already calculated, or
- £40,000, or
- the amount of any chargeable gain you make because of the letting.

Example 8

You let 60% of your house as residential accommodation and occupied 40% as your home. You made a gain of £60,000 when you disposed of the property. You are entitled to private residence relief for 40% of the gain - £24,000. Your remaining gain is £36,000 and it all results from the letting. The lowest of the three limits set out above is the amount of private residence relief and so you are entitled to further letting relief of £24,000. Your chargeable gain will be £12,000.

Calculating the gain where only partial relief is due

In summary:

- **if part of your home is used exclusively for business purposes, or you have let part of your home**, split the gain between the business part or the let part, which is chargeable, and your own living accommodation, which is exempt
- **if you have not always lived in your home**, other than allowed periods of absence, multiply the total gain by a fraction equal to the period you actually lived in the dwelling-house plus any allowed periods of absence plus any part of the final 36 months not covered by actual occupation or allowed period of absence, divided by the period of ownership. That part of the gain will be exempt
- **if you have had more than one home**, decide whether or not the home you have sold has ever been your only home (a question of fact) or has been nominated at any time as your main home. Multiply the total gain by a fraction representing the period(s) during which the dwelling-house was your only or main home plus the final 36 months, divided by the period of ownership. That part of the gain will be exempt

- **if you have let your home**, do the calculations as shown under the heading 'Letting relief' and add the lowest figure to the relief you are already getting for your home as calculated above
- **if you are selling land which formed part of your garden** (provided that you are not selling the land after selling your home, and provided the land has not been divided off from your garden or developed in some way, in which case no relief is due) you will need to decide if any or all of the land sold is within the permitted area. If all of the land is within the permitted area, the gain will be exempt. If only part of the land is within the permitted area, then you will have to split the gain between the land which is inside the permitted area, which is exempt, and the land outside, which is chargeable. If the total area of your garden is more than half a hectare, the District Valuer will be asked to determine the size and location of the permitted area.

Residence provided for a dependent relative

In addition to the relief that may be due on disposal of your own residence, you may also be entitled to relief when you dispose of a residence which you have provided for a dependent relative. But you cannot get relief for:

- any residence acquired after 5 April 1988, or
- any residence acquired before that date unless the conditions for relief were met by that date.

The conditions for relief are:

- the dependent relative must occupy the dwelling-house rent free and without any other consideration
- only one dependant's dwelling-house can qualify at any one time
- a husband and wife or civil partners who are living together can claim relief for only one such dwelling-house between them
- the dwelling-house must be the sole residence of the dependent relative.

Who is a dependent relative?

Dependent relatives are:

- any relative of yours or your spouse or civil partner who is incapacitated by old age or infirmity from maintaining himself or herself, or
- your own or your spouse's or civil partner's mother who, whether or not incapacitated, is either widowed, or living apart from her husband, or is a single woman in consequence of dissolution or annulment of marriage.

If you are in any doubt, ask us or your tax adviser.

Private residence relief on the disposal of settled property

The trustees of a settlement may claim relief (see 'How to claim relief' on page 8) if they dispose of the only or main residence of a person entitled to occupy that residence under the terms of the settlement. This is provided that, in calculating the amount of the gain arising on the disposal that would be a chargeable gain if the relief did not exist, no account would have to be taken of any gifts hold-over relief obtained under Section 260 of the Taxation of Chargeable Gains Act 1992 by any person in respect of any earlier disposal.

Special transitional rules that may allow some private residence relief to be claimed by the trustees apply where gifts hold-over relief is obtained in respect of a transfer to the trustees which was made before 10 December 2003.

Ask us or your tax adviser for more details.

Personal representatives

Personal representatives who dispose of the only or main residence of one or more legatees during the administration period may claim relief (see 'How to claim relief' below) if the legatee or legatees in question would be entitled to at least 75% of the proceeds of the disposal of the property (assuming that none of the proceeds is required to meet any liabilities of the deceased person's estate). Ask us or your tax adviser for more details.

How to claim relief

In your computation of the gain on any relevant disposal included with the *Capital gains summary* pages CG 1 and CG 2, either in box 35 on page CG 2 or in your attached computation, write that 'private residence relief is claimed' and state the amount of relief claimed.

These notes are for guidance only and reflect the position at the time of writing. They do not affect any rights of appeal.