

Property Matters -

A refreshing update



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The range and location of Whitings LLP clients is vast, and the specialist staff possess an equally vast level of experience, knowledge and expertise. There is, however, one thing each of us has in common, and this is property.

At one time or another we all spend a significant amount of time on this subject, whether on a personal or professional basis. We all understand the importance of complying with the rules and the importance of dealing with all of the relevant tax legislation to ensure that we all pay the correct amount of tax.

However, when you consider property and tax, you perhaps don't realise the extent that tax is relevant, although it does encompass a range of seven separate taxes

depending whether you are selling, buying, renting, leasing or planning on your inheritance.

It is hoped that we will provide you with a diverse selection of articles which will be relevant to you, whether personally or in business, and you will find these to be informative and useful. Indeed, in this issue we look at a number of prominent issues including what Making Tax Digital (MTD) for those individuals renting properties will require, to highlighting some of the issues surrounding the sale of UK residential property with the requirements of the 60 days in which to report and pay any tax due, to finally considering the matters surrounding furnished holiday lettings, especially with the effects of the pandemic.

I will welcome your feedback and I look forward to providing you with further insightful articles in the future.



MTD for landlords



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Landlords currently using self-assessment will be required to switch to using Making Tax Digital for Income Tax Self-Assessment (MTD for ITSA for short) and applies to all landlords whose total property income is in excess of £10,000 per year, including:

- Rental income from UK rental properties
- Other UK property income such as reverse premiums or the grant of a lease
- Income from a Furnished Holiday Let business
- Rental income from foreign rental properties
- Other foreign property income such as the receipt of premiums

Excluded from the above list is income from renting a room to lodgers in your own home (where this falls below the Rent-a-Room threshold of £7,500, or £3,750 for a jointly owned home).

The threshold of £10,000 applies to gross turnover, rather than profit. It applies to the total gross income if there is

more than one trade or property business, for example, if the individual has £5,000 of gross rental income and £6,000 of sole trade turnover, they will be in the scope of MTD as the combined total exceeds £10,000.

The £10,000 MTD ITSA threshold applies per taxpayer, not per property.

HMRC have confirmed that MTD for ITSA will be introduced from April 2024. All businesses in existence immediately before 6 April 2023 will be required to join MTD for ITSA with effect from 6 April 2024, regardless of their accounting period end date.

What will I need to do?

Affected individuals will need to:

- Keep accounting records in a digital format (using suitable software) and
- File quarterly returns to HMRC to include details of their income and expenditure, and
- Submit an end of period statement (EOPS) after the tax year, plus a final declaration, to finalise their affairs.

Separate quarterly updates and EOPS will be required for each property business carried on, which could prove onerous if you have more than one source to consider.

However, don't panic as Whitings will be here to support you every step of the way!



Furnished Holiday Lets (FHL)



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Unlike other properties, FHL's benefit from a number of tax advantages including capital allowances on domestic items and full deductibility of mortgage interest. FHL's also benefit from Capital Gains Tax (CGT) reliefs on disposals including Business Asset Disposal Relief, Rollover Relief and Holdover Relief.

For a property to qualify as an FHL for the year ended 5 April 2023, the following conditions must be satisfied:

- The property must be let on a commercial basis with a view to profit.
- The property must be located in the UK or the European Economic Area.

- The property must be sufficiently furnished to provide for normal occupation.
- The property must be available to let for 210 days.
- The property must be let for 105 days (the letting condition).
- The total of all lettings that exceed 31 continuous days cannot be more than 155 days in total.

Where a taxpayer has multiple FHL's and the letting condition is not met for at least one of the properties, then an averaging election can be made whereby the letting condition is applied to the average rate of occupancy across all of the taxpayers FHL's for a given year.

A taxpayer can also make a period of grace election which allows the property to qualify as an FHL for a given year even if the letting condition is not met. A period of grace election cannot be made for more than two consecutive years.

If you are not sure of the steps that you need to take to ensure that your property continues to qualify then your local Whitings contact will be here to help.

CGT is on the rise



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In the 2020/21 tax year, record amounts of CGT was recorded, with the total CGT liability increasing by 42% from the previous year. This does not come as much of a surprise, as 2020/21 was the first year the 'CGT on UK property service' was introduced.

However, HMRC have recently reported that, in the 2021/22 tax year:

- The 'CGT on UK property service' was used by 129,000 taxpayers - an increase of 52%.
- 137,000 returns were filed - an increase of 45%.

- Just over £1.7 billion tax liability accrued on residential property disposals - an increase of nearly 50%.

It may seem obvious that this reflects the increased activity within the property market following the COVID-19 pandemic, proven by an increase in the number of transactions between the first two tax years.

A CGT return is not required if you are UK resident and no tax liability arises as a result of the disposal. However, non-UK residents are required to report ALL UK property disposals (both residential and commercial), regardless of whether a liability arises. This report must be filed, and the tax paid to HMRC, within just 60 days of completion - not a great deal of time and certainly a lot sooner than the previous Self Assessment deadline!

According to HMRC's figures, approximately 20% of taxpayers who had gains to declare from UK residential property, failed to report and pay the CGT due on time in 2021/22. Whitings are here to help.

Divorce rule changes



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Divorce and CGT

Under current legislation, married couples and civil partners can transfer chargeable assets between them without incurring CGT under the 'no gain, no loss' principle. However, for separating couples, this only applies until the end of the tax year of separation.

A couple who separated in February 2022 could therefore only transfer assets 'free of tax' until 5 April 2022. Chargeable assets transferred after that date could incur CGT.

The Government has released draft legislation which allows couples up to three tax years from the year in which they cease to live together as a married couple to transfer assets on a no gain, no loss basis, and essentially an unlimited period if the transfer is made as part of a formal divorce agreement.

Private Residence Relief (PRR)

As the rules stand, where an individual moves out of their main residence, they are deemed to occupy the property for the last 9 months of ownership for PRR purposes.

However, the divorce process can often exceed 9 months, leaving the spouse who moved out with a potential CGT liability, plus the requirement to report and pay under the 60-day reporting rules.

From 6 April 2023, the new rules should ease the pressure for separating couples by removing the worry of any CGT which could arise.

From 6 April 2023:

- A PRR claim will be possible for a spouse or civil partner who retains an interest in the former matrimonial home, but no longer lives in it as their main home.
- PRR will also be available where one spouse transfers the property to the other spouse but will receive a percentage of the proceeds on a future sale.

The aim of these provisions is to put the departing spouse in the same PRR position as they would have been had they not moved out and help to balance up the tax position on a shared residence for a divorcing couple.



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