



WHERE DO YOU LIVE?

CGT MAIN RESIDENCE RELIEF ON MORE THAN ONE HOME.

The cottage next door in my village has just been sold, and the new owners (who live in London) are going to be using it as a weekend cottage. I wonder if they have considered the CGT opportunities they may have as a result?

As everyone knows, there is an exemption from CGT for your “only or main residence”. At any one time, you can have only one “main residence”, and if you are a married couple (or a civil partnership) you can only have one between you.

Once a property has been your main residence **at any time**, it is **deemed** to be your main residence for the **last three years before you sell it** – even if you have another main residence at the time.

If you have more than one property that could be treated as your main residence, you can “nominate” which one is to be treated as your main residence for CGT purposes. The time limit for such a nomination is two years after the situation first arises – so my new weekend neighbours will have two years from the day they bought the cottage to nominate it as their main residence.

You make the nomination by a letter to the inspector of taxes – and if you are a married couple or civil partnership, both of you have to agree and sign the nomination, as it applies to both of you.

Once you have made a valid nomination, you can vary it at any time, and the variation can be made retrospective for up to two years.

Those are the rules of the game – now let’s look at some of the ways to play it!

Barney and his wife live with their two children in a large house in Cornwall. This was the only property they owned, until Barney got a job in London. He bought a small flat in the London Docklands to live in during the working week, but hurries home to Cornwall every weekend.

About 18 months after he bought the London flat, Barney and I were in the local pub one Saturday, and I asked him if he’d nominated either of the properties as his main residence.

“No”, he said, “Should I?”

“Yes”, I said, “nominate the Cornwall property, and don’t forget to get your wife to sign as well”.

Barney wanted to know why.

“Look”, I said, “just do it, OK?” (I don’t talk to clients like that, but Barney hadn’t even bought me a pint).

Barney did as he’d been told. Another 18 months went by, and one evening he started to give me an earful – he’d taken a new job in Cornwall, and had just sold the London flat – and thanks to me, he said, it wouldn’t be exempt as his main residence, because he’d nominated the Cornwall house on my advice.

I explained to Barney that my advice hadn’t been as stupid as it seemed – because he had a valid nomination in place, he could now vary it at any time, and make the variation retrospective for up to two years.

I told him to send another letter to the inspector, saying he wanted to vary his nomination to make the London flat his main residence with effect from 1 April 2011. A week or so later, he was to send in yet another variation, nominating his Cornwall house with effect from 8 April 2011. As before, the variations had to be signed by Barney and his wife.

Do you see what this has achieved?

- The London flat was legally Barney’s main residence for one week in April 2011, so the last three years of his ownership are exempt from CGT – and as he had sold it after having owned it for just under three years, all the gain was exempt.
- If he came to sell his Cornwall home in the future, it would have been his main residence throughout his ownership of it, except for only one week in April 2011, so only a very small fraction of the gain would not be exempt – probably, it would be covered by his and his wife’s annual exempt amount (currently £10,600 each).

This time, Barney did buy me a pint!

Casey had been listening to our conversation, and explained that he was in a similar position (house in Cornwall, job and flat in London), but as this had been going on for more than two years, he supposed it was too late to make the nomination. He had just heard that he was going to be transferred to Manchester at the end of the year, so he planned to sell the London flat, and buy one in Manchester. At the moment, he was spending one week a month in Manchester, where he stayed in a hotel at his employer’s expense.

“OK, Casey”, I explained, “This is what you do. **Before you finish working in London**, buy a flat in Manchester (or rent one if you can’t afford to buy until you sell the London flat – a rented property can count as your main residence). As soon as you have the Manchester flat, you’ve started a new two year period to make a nomination. Nominate your Cornwall home, then send in a variation in favour of the London flat with effect from 1 April 2011, then another variation in favour of the Cornwall home with effect from 8 April 2011. That will get you the exemption for the last three years you owned the London flat, at the cost of losing a week’s exemption on the Cornwall house. If you start by renting in Manchester, then later when you buy a place in Manchester, make **another** nomination in favour of the Cornwall home. When you come to sell the Manchester flat, you can vary that nomination in favour of the Manchester flat and back again a week later, so that you get the last three years’ exemption in Manchester.”

I didn't pay for a drink all evening!

Caveat – Notice that I was careful to tell Casey that he had to buy or rent the Manchester flat BEFORE he stopped working in London and using the London flat. These nominations only work when they involve properties that COULD be your main residence – that is, a property where you genuinely live on a regular basis for at least some of the time.

This article by James Bailey first appeared in Tax Insider magazine (www.taxinsider.co.uk)