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## David Beckman & Co Ltd

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# Selling your main private residence

## Capital Gains Tax

There is a special capital gains tax relief when you sell your home. This is called '*principal private residence relief*'. If you have always lived in the property and have no other private residence then the position is often quite straightforward. But, it is important to be very clear on the facts and to understand the tax law.

The main point to consider is how the house was used. Was it your main home? Has it been let out or left empty? Have you owned another property, or even rented one, at the same time as you owned the one that has been sold?

If you have never lived in the house as your main home, then you are not entitled to principal private residence relief. If you have lived in it as your main home for some of the time during which you owned it, you should be entitled to some principal private residence relief.

*Quality of occupation and intention matter here more than simply length of time.* A relatively short period actually living in a flat as a home, with the initial intention to occupy the flat for the long-term, can establish the right to some principal private residence relief. If your plans change, and you leave the flat after a few months, you should still be eligible for principal private residence relief. However, you would not have any right to principal private residence relief where you own a house which has been let out but not occupied at any stage as your private residence.

When a property qualifies as a principal private residence for capital gains tax, then the following also apply:

1. You are treated as living there – and so entitled to private residence relief – during the last period of ownership even if you are not actually living there. From 6 April 2014, this covers the last 18 months of ownership.
2. You can be away from your principal private residence for work (4 years in UK; without restriction if abroad) or any other reason (up to 3 years) and still qualify for these periods, so long as you re-occupy the property as your principal private residence after the absence **and** you do not have any other house eligible for principal private residence relief during the same period of absence. This requirement to re-occupy the property is relaxed in respect of absences resulting from work where the terms of employment prevent re-occupation of the property.
3. You can get a 'letting relief' if you let your property as residential accommodation. Letting relief applies where a house that has been your main private residence is let as residential accommodation. The letting can be before or after the time you occupy it as your principal private residence. Normally capital gains tax would be payable when you sell or give away a property which is rented out. But this special relief means that



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any capital gain which would be charged to tax for the period when the house is let out, is reduced by up to £40,000. (The calculation is complicated and you should take advice if this applies to you).

If there is still a capital gain after all these aspects have been taken into account (viz permitted time away, letting relief, last 18 months, private residence relief for time of actual occupation), then the annual capital gains tax exemption (see earlier section) may cover what is left.

**Possible complications:**

Principal private residence relief can become very complex. Possible complications include:

- The treatment of annexes and outbuildings – are these substantial enough to be treated as separate buildings and so be outside the principal private residence relief available on the main property?
- Buildings which are divided into flats, or which share common facilities
- The size of gardens / grounds – extensive grounds may not be included within principle private residence relief
- The motivation for sale – there are anti-avoidance rules which apply if someone buys a property in order to make a gain – i.e. their intention was property speculation
- Building your own home and selling it could be regarded as a trade and so taxable as a business, particularly if this is done more than once, or if you earn your living as a builder
- The order of sale of house and grounds can all have a substantial impact. Selling house and grounds separately could affect the principal private residence relief available
- Ownership of two properties, or even renting a second property as a main residence, means that you have two residences. In such cases you should make a tax election within 2 years of acquiring the second property. If you do not, HMRC will decide which of the two is your main residence
- Owning a property which is someone else's private residence, or living in a property owned by someone else. This can happen where relatives try to 'help out'. *E.g. An uncle buys a half-share in his nephew's house to help the nephew to get a mortgage. The uncle is not living in the house, so he is not entitled to principal private residence relief on the part he owns. If he later gives (or sells) his share to the nephew there could be Capital gains tax to pay*
- Care is needed on separation or divorce. When one person moves out of the family home this can put at risk the CGT private residence relief on their share of the property. The position is complex and it would be best to take advice from a tax adviser
- You are non-UK resident at the time you sell a property which once was your main home in the UK. Any gain arising from 6 April 2015 will be subject to UK tax and possibly also tax in the country where you are living at the time of sale (see our separate factsheet on this).

If your circumstances are complex, it is best to take advice, as mistakes with capital gains tax can be very expensive.

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