



## BRIEF ENCOUNTER

### Does my friend have to pay capital gains tax?

**Q** A friend was unable to sell his old home in the present market before moving into a new one. He was advised to let it out in the hope that things would pick up over the next year or so. He has now been told that he will become liable for capital gains tax (CGT) when he sells as his house is no longer his principal residence. Is this so?

**A** The vast majority of people who sell private residential homes in this country do not have to pay capital gains tax. This is because the sales almost always attract private residence relief (PRR) under part VII of the Taxation of Chargeable Gains Act 1992.

In essence, a taxpayer gets relief if he has at any time occupied a home as his "only or main residence". Whether the property has been an "only or main residence" can be a matter for tricky discussions with the tax man, but in most cases it will be clear enough.

Your friend seems to have satisfied the basic requirement for residence in this case.

Once the right to relief is established, the taxpayer will not be charged CGT for any period while he uses the property as his main home. If the property is let out, a separate relief (called "letting relief") is available on a proportion of the capital gain based on the relative periods of residence and letting.

However, in your case, the most important provision is section 223(2)(a) of the Act. This states that PRR is always available during the 36 months of ownership before the taxpayer sells — whether or not the property is used by the taxpayer as his only or main residence. The taxpayer can claim relief even if he rents out the property during those last three years.

As long as your friend sells his old home within three years, he is unlikely to have to pay capital gains tax while he rents it out.

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