Residential Landlord and Tenant Tax Update

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The Covid-19 outbreak has come at a difficult time for landlords.

The measures identified in Matthew Cannings and Alex Leonhardt's Covid-19 article (the extension of notice periods before possession claims can be issued, and the stay of all possession claims) come on top of previously announced changes to taxation of individuals owning residential properties which increase the tax burden.

In particular, individuals owing residential property can no longer set mortgage interest against rent received when calculating their profits, although they do now receive a tax credit of 20% of the interest paid.

For higher rate taxpayers, this effectively provides only basic rate tax relief in respect of the mortgage interest payments. For those on the threshold of higher rate tax, it may significantly increase their tax bill, as the full rental income will be taken into account to calculate the tax, and thresholds, whereas the tax credit will then only be given at basic rate.

This has been phased in over the past three tax years, 25% at a time; from 6 April 2020, it has full effect.

For those selling houses (difficult though that now is), there are potentially additional capital gains tax burdens.

First, the period of absence at the end of ownership that will be ignored when claiming the principal private residence relief (PPR) has been reduced from 18 months to nine months. This means that, to claim full relief, properties will need to be sold sooner after owners move out. This could cause difficulties in the current slow market.

Second, the conditions for letting relief are amended. If a homeowner lets out part of their home, any gain on sale would normally be apportioned between the parts occupied and let, with PPR only available on the gain attributable to the part occupied by the taxpayer. Letting relief allows PPR to be claimed on the gain attributable to the part let, subject to a maximum of £40,000. From 6 April 2020, this can only be claimed if the owner has shared occupancy with the tenant.

Third, capital gains tax (CGT) on a disposal must be paid sooner. CGT is normally included in a tax return for the relevant year, which must be submitted, and the tax paid, by 31 January the following year. Under new provisions set out in Schedule 2 of the Finance Act 2019, taxpayers who dispose of residential property (and non-residents who dispose of any property, whether or not residential) must make a provisional return within 30 days of completion, and make an interim payment of the tax, to be set against the tax due when the final return when submitted.

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