

Private Residence Relief – Update to current guidance

A valuable capital gains tax exemption known as Principle Private Residence Relief or “PPR” applies when a taxpayer sells their main home. There are conditions attached to this relief.

The relief applies to your “dwelling house” if it has been your only or main residence throughout your period of ownership. This relief also applies to the garden or grounds, including outbuildings on these grounds, that do not exceed the ‘permitted area’.

Land that is used for business purposes or land that has been sectioned off will not qualify for relief.

The permitted area test has been subject to much consideration over the years, as the surrounding gardens and ground vary significantly with each property and location.

Permitted Area

If your garden and grounds do not exceed half a hectare (which is a little over one acre) then you will be entitled to full relief from capital gains tax for the entire area. If the area exceeds this amount then you may be entitled for some relief amounting to the area that is required for the reasonable enjoyment of your dwelling house. HMRC will take into account the size and character of the house.

In practice, HMRC may instruct the district valuer to review PPR cases and taxpayers should ensure that a map of the property is reviewed if the area in question does exceed the permitted area.

Recent changes – what is required for reasonable enjoyment?

A recent case in this area has widened the scope of what could constitute an area required for reasonable enjoyment of a dwelling house. Phillips v HMRC was heard at the first-tier tribunal and therefore there is scope for appeal however the decision in this case was in favour of the taxpayer and is a very interesting development.

What has changed?

The courts found in favour of a taxpayer who claimed that 0.94 of a hectare was required for the reasonable enjoyment of the main dwelling-house and therefore, the entire plot qualified for PPR and no capital gains tax was due on the sale.

Details of the case...

The taxpayers purchased a house in 1997. At the time of purchase the property was a five bedroom house with a three car garage. On the 2.3 acre grounds of the property there was also a swimming pool, a garden and a one bedroom cottage. The property was situated in a very rural area surrounded by fields.

The taxpayers sold the property to a housing developer and sought to claim PPR. HMRC contested this point. The tribunal (first tier tribunal) decided to consider the relevant facts and evidence, including the size, nature and value of the house and buildings themselves. In addition, the location was also examined. The entire plot was relevant for PPR as the property could be argued to be relevant for a purchaser looking to acquire a house with space and privacy and the rural location could provide for a larger area for a garden.

In a recent consultation for making Capital Gains Tax simpler with HMRC, it was suggested that a review of the use of gardens for main residence relief would be undertaken in the future. This is more welcome news in this area of tax law.

This article was produced in June 2021 – please always check with Fuller Spurling that information is current, up to date and applicable to your situation