



PRIVATE RESIDENCE RELIEF PROBLEMS

One of our clients contacted us to request assistance on a Private Residence Relief (PRR) case.

The client was a wealthy entrepreneur who had dabbled in the property development business and HMRC was now seeking to disallow PRR on the sale of their current home – not only because it was a substantially redeveloped property, but also because the property had an additional stretch of land attached to it which meant that the total area sold was over half a hectare.

Clearly, the client's occupation was a red flag in relation to any property sale and failure to successfully argue this case could have meant a £300,000 CGT liability

The property had been sold in 2014 and HMRC had launched an enquiry into the 2014/15 return on time. There was then a substantial exchange of correspondence which essentially boiled down to HMRC digging their heels in and advising that the sale had all the hallmarks of contravening s.224(3) TCGA 1992 (gain in relation to a property purchased with the intention of realising a gain). If that argument failed, there would be a potential substantial additional tax bill to reflect the sale of the land over half a hectare.

It was at this point when HMRC was about to issue a closure notice that the client asked for our assistance. As with all such cases, a detailed fact find was required and we duly met with the client and his advisers to obtain a detailed time line and supporting documentation.

Aside from proving that the client's intention was to sell from the outset, HMRC would need to demonstrate that the client did not have any "quality of residence" in accordance with the oft-quoted tax case of ***Goodwin v Curtis [1998 BTC 176]***

In the event, with some detailed prompting, the client provided us with a timeline, family photos clearly showing the family occupied the property, utility bills, local medical registration cards and a clear explanation of what other properties they had occupied whilst their main residence was being redeveloped. Proving subjective intention that the client intended moving into the property as his Private residence and not just as temporary accommodation with a view to obtaining PRR is always difficult so a lot of weight is given to circumstantial evidence. In this case, the weight of evidence was such that any tribunal would have encountered severe difficulties in agreeing HMRC's position.

The secondary issue of the additional land was resolved by the fact that the property came with additional covenanted land between the property and the sea front which meant that it could not be developed on, nor could it be sold separately from the property and was therefore of negligible value. This meant that all of the value was in the property and its garden which did come under half a hectare.

After several months of deliberation and review by an HMRC independent statutory reviewer, HMRC finally accepted that the house was the client's PPR and that the covenanted land would not affect the calculation. Accordingly, there would be no additional tax to pay.

If you have a case like this, are having difficulties with HMRC and would like to speak to one of the consultancy team please email consultancy@cronertaxwise.com or call the team on 0844 728 0120



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