



FINANCE BILL 2014: CLAUSE 54: RELIEF ON DISPOSAL OF PRIVATE RESIDENCE

ICAEW welcomes the opportunity to comment on the [Finance Bill](#) published on 27 March.

This briefing has been prepared on behalf of ICAEW by the Tax Faculty. Internationally recognised as a source of expertise, the Faculty is a leading authority on taxation. It is responsible for making submissions to tax authorities on behalf of ICAEW and does this with support from over 130 volunteers, many of whom are well-known names in the tax world. Appendix 1 sets out the ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark proposals for changes to the tax system.

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SUMMARY OF MAIN POINTS

1. This clause reduces the period for which a main residence automatically qualifies for exemption from capital gains tax from the last 36 months of ownership to the last 18 months.

WHAT CLAUSE IS INTENDED TO DO

2. The final period is reduced to 18 months in most cases with exceptions for individuals who are disabled or in a care home and with no other property on which they can claim private residence relief who continue to get 36 month final period exemption.

WHAT ICAEW IS CONCERNED ABOUT

3. We agree that the 36 month period should be retained for disabled persons and those moving into a care home long term. However, we would like the 36 month period to be retained for those moving, for reasons of ill health or age, into assisted living/sheltered accommodation or moving in with relatives who will provide the care.
4. The exemption for the final period of ownership is to allow time for the owner to sell the property after they have already purchased the replacement. Whilst 18 months may be a suitable time frame for selling a property in the South of the country it can take considerably longer in other parts of the country.

RECOMMENDATIONS

5. We recommend that the exemption be extended to include cases where an individual moves into assisted living/sheltered accommodation or moves in with relatives who are providing care.
6. Receipt of attendance allowance could be used as the evidence that an individual is in need of care.
7. We would like an additional clause in the legislation to allow a 36 month period at the discretion of HM Revenue & Customs where circumstances have prevented an earlier sale, for example because of market conditions. Whilst the context is different HMRC is given a similar discretion to allow relief outside the specified statutory period in the roll-over relief legislation (TCGA 1992, s 152(3)), so this proposal is in keeping with what has been found acceptable before.

PROPOSED AMENDMENT

8. We propose the following amendments:

Clause 54, subsection (3), page 45, line 15, amend as follows –

‘(a) the individual is a disabled person or a long-term resident in either a care home or sheltered accommodation or assisted living accommodation or living with family who are providing care’

Clause 54, add new subsection to add new subsection to TCGA 1992 s223 –

‘the period referred to in subsections (1) and (2)(a) to be extended to 36 months by notice of HMRC at their discretion’

APPENDIX 1

ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.
4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see icaew.com/en/technical/tax/tax-faculty/~media/Files/Technical/Tax/Tax%20news/TaxGuides/TAXGUIDE-4-99-Towards-a-Better-tax-system.ashx)