HMRC - CG64555 - Two Or More Residences: Job Related Accommodation

Example

TCGA92/S222 (8) sets out that where an individual,

resides in living accommodation which is job related within the meaning of TCGA92/S222 (8A) to TCGA92/S222 (8D), and

has an interest in a dwelling house which he or she intends to occupy in due course as his or her only or main residence

the private residence relief provisions will apply to the dwelling house which he or she intends to occupy as if it were actually occupied as a residence during the period in which the intention to occupy it existed.

Sections 222 (8A) to (8D) set out that living accommodation is job related if,

for the proper performance of their duties, or

for the better performance of their duties and where the provision of living accommodation is customary for that type of employment, or

where the accommodation is provided as part of special security arrangements.

Where the living accommodation is provided by a company and the employee is a director of that company or of an associated company the accommodation will not be treated as job related unless,

their employment is as a full time working director, or

the company is non profit making, or

the company is established for charitable purposes only.

Accommodation is also job related where,

the individual or his spouse or civil partner are contractually required to reside in premises provided by another person from which they carry on a particular trade, profession or vocation.

The accommodation is not treated as job related where the accommodation is in whole or part provided by,

a company in which they or their spouse or civil partner, has a material interest

any person(s) with whom they or their spouse or civil partner carry on a trade or business in partnership.

As the legislation deems the dwelling house to be a residence, where appropriate, the individual may nominate the dwelling house to be treated as their only or main residence under TCGA92/S222 (5). See CG64485.

Job related accommodation will be occupied either under a service occupancy or a tenancy. Under a service occupancy the property is occupied under licence and as such it is not a residence within the meaning of section 222. Therefore if the individual has only one other residence, there is no need to make a nomination in favour of the property which is intended as the main residence in due course. Job related accommodation occupied under a tenancy is a residence within the meaning of section 222. Therefore the individual may nominate which of his or her residences is to be treated as the main residence, see CG64485. In the absence of a nomination, the main residence must be established by reference to the facts, see CG64545.

It may be that the individual never actually occupies the dwelling house that they intended to occupy due to a change in circumstances or some other reason. Nonetheless, providing it was always the individual’s intention to occupy that dwelling house, relief will be available.

However if the intention to occupy the dwelling house ceases then the dwelling house is no longer treated as a residence.

Example

W is a farm worker who has lived in a cottage provided by his employer on the farm since 1993. He has a licence to live there for as long as he is an employee. The cottage is job-related accommodation within the terms of TCGA92/S222 (8A) to TCGA92/S222 (8D).

In July 2004 he acquired a house on the coast intending to occupy the property as his only or main residence on his retirement in 2016.

In June 2008 his circumstances changed and he decided that he no longer wanted to retire to the coast. He retained the property for a while but sold it in December 2013.

W is entitled to relief for the 48 months that he intended to occupy the house as his only or main residence. Also, because during his period of ownership the house was deemed to be his only or main residence, W is entitled to relief for the final 36 months of ownership\* from January 2011 to December 20013. So 84 months of the total period of ownership qualify for relief.

There may be circumstances where the dwelling house is let or used for some other purpose whilst the individual occupies the job related accommodation. This will not prevent relief from being available, although if the lease of the dwelling house extends beyond the period of expected occupation of the job related accommodation, this may be evidence that there was no intention to occupy the dwelling house at the end of the period.

\*If the house had been disposed of on or after 6 April 2014 the final period exemption would be limited to 18 months see CG64985.

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