

## Your Legal Questions

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**Q.** My house has a large garden and I would like to raise some funds by selling part of it as a building plot. I have been told that I will not have to pay any Capital Gains Tax because the land is occupied with the house. Is that right?

**A.** In principle the sale of your home is exempt from Capital Gains Tax ("CGT"); less well known is that this exemption, known as Main Residence Relief, only covers the garden and grounds up to 0.5 hectare (1.24 acres) or such larger area as is required for the reasonable enjoyment of the house as a residence.

If you sell part of your garden as a building plot, this relief will be available if the garden is less than 0.5 hectare to start with. It will almost certainly not be available if the garden is more than 0.5 hectare because you could not convincingly argue that a garden of that size is reasonable for the proper enjoyment of your house if you are prepared to sell part of it.

If you decide to develop part of the garden yourself and build a house be aware that you are unlikely to qualify for Main Residence Relief as the garden will now be treated separately from the main residence and CGT will be payable – or possibly Income Tax if Her Majesty's Revenue & Customs establish that the development of the plot is part of a business.

For gardens exceeding 0.5 hectare it is probably advisable to sell the land with the house to maximise the chance of claiming Main Residence Relief on all the gains arising from the increase in value since you bought it.

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