



Investments: taxable property: Meaning of taxable property: Parts of buildings

Parts of buildings

Building or structure includes part of a building or structure. If a building includes a large number of separate flats then these are all treated as separate buildings.

If a building includes a shop with a wholly separate flat above it is treated as two separate buildings. The flat is a residential property and the shop is a commercial one. A flat is wholly separate if it has a separate entrance and has no inter-connection with other parts (for this purpose a communal hallway is not an inter-connection).

If a building comprises part which is used for commercial purposes, such as a shop, with an inter-connected residential area, such as a flat, this is one building and the whole will be treated as residential as it is suitable for use as a dwelling. Different parts of a building are inter-connected if they share a common entrance and where you can move from one part to another without moving through common areas.

When it is necessary to determine such issues as

- whether a dwelling comprises the whole of a building or structure or more than one building or only part of a building,
- whether land forms part of the gardens or grounds of the building used for a purpose connected with the enjoyment of the building,
- HMRC will look at the specific facts and circumstances and take a pragmatic and common sense approach.

For example a detached garage used to house the family car is part of the residential property but merely because a house is on the same area of land as a factory would not make the factory residential property.

If there is mixed use you should look to establish the primary use.

Examples.

An ancillary building that is primarily used for non residential purposes, perhaps a farmer's barn but where the farmer occasionally garages his personal car, should be treated as non residential property if the non residential use is the primary use.

Alternatively, if a property is a house that has two rooms used as a dental surgery and waiting room the property will be residential property as it is suitable for use as a dwelling.

These issues have a close correlation with issues relevant in dealing with an individual's entitlement to Capital Gains Tax Private Residence Relief. Extensive guidance on all aspects of that relief is provided in the Capital Gains Tax Manual starting at CG64200 which should be consulted for assistance with related issues arising here.

