



CAPITAL TAXES

Capital Gains Tax

A capital gain arises when certain capital (or 'chargeable') assets are sold at a profit. The gain is the sale proceeds (net of selling costs) less the purchase price (including acquisition costs). The taxation of capital gains has been significantly revised from 6 April 2008. This factsheet deals with the current position.

What are the main changes from the previous rules?

For all disposals made on or after 6 April 2008:

- taper relief has been abolished
- indexation allowance for individuals is no longer available
- the rules affecting the disposal of shares have been simplified.

What are the main features of the current system?

- a flat rate of capital gains tax (CGT) of 18% is to apply to all chargeable gains and
- a new Entrepreneurs' relief may be available on certain business disposals.

What do the changes in the rules mean for you?

For any gains arising on or after 6 April 2008 and any held over gains coming into charge on or after that date, the chargeable gain will be liable to tax at 18%, after deducting allowable losses, any other reliefs and the annual exemption.

The most significant change for owners of business assets is the withdrawal of taper relief. During 2007/08 business gains were eligible for up to 75% relief, which equated to an effective CGT rate of 10% for a higher rate taxpayer.

For example consider the situation of a higher rate taxpayer who sold a business asset realising a gain of £1,000,000. Business asset taper relief was available at 75%, so in simple terms, only £250,000 was chargeable at 40%, a bill of £100,000.

In 2008/09, the original proposals were that the whole £1,000,000 would be chargeable at 18%, a bill of £180,000 however after business leaders voiced their objections to the abolition of taper relief, the Chancellor introduced a new Entrepreneurs' Relief (ER).

Entrepreneurs' Relief

ER may be available for certain business disposals taking place on or after 6 April 2008 and for a higher rate payer has the effect of charging the first £1m of gains qualifying for the relief at an effective rate of 10%.

The relief will apply to gains arising on a disposal of:

- the whole, or part, of a trading business that is carried on by the individual, either alone or in partnership;
- shares in a trading company, or holding company of a trading group, provided that the individual owns broadly a 5% shareholding and has been an officer or employee of the company;
- assets used by a business or a company which has ceased;
- assets used in a partnership or by a company but owned by an individual, if the assets disposed of are 'associated' with the withdrawal of the individual from participation in the partnership or the company.

A trading business includes professions but only includes a property business if it is a 'furnished holiday lettings' business.

Restrictions on obtaining the relief on an "associated disposal" are likely to apply in certain specific situations. This includes the common situation where a property is currently in personal ownership, but is used in an unquoted company or partnership trade in return for a rent. Representations have been made by various bodies on this issue due to the fact that under the old taper relief provisions such assets would have mainly qualified as business assets. At time of writing, under the new ER provisions such relief could be diluted or unavailable so we will be keeping a watch for developments in this area.

What is clear is that careful planning will be required with ER but if you would like to discuss ER in detail and how it might affect your business, please do get in touch.

The withdrawal of indexation allowance

Indexation allowance was, for individuals and trustees, the precursor to taper relief and gave relief for the effect of inflation on the costs incurred on acquiring and improving assets. Indexation was frozen as at 5 April 1998 for individuals, but the entitlement up to that date was still deductible for disposals in 2007/08.

For disposals on or after 6 April 2008 indexation allowance will no longer be available even for periods up to 5 April 1998.

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Simplification of the share identification rules

From 6 April 2008, all shares of the same class in the same company will be treated as forming a single asset, regardless of when they were originally acquired. However, 'same day' transactions will continue to be matched and the '30 day' anti-avoidance rules will remain.

Example

On 15 April 2008 Jeff sold 2000 shares in A plc from his holding of 4000 shares which he had acquired as follows:

1000 in January 1990

1500 in March 2001

1500 in July 2005

Due to significant stock market changes he decided to purchase 500 shares on 30 April 2008 in the same company.

The disposal of 2000 shares will be matched firstly with later transaction of 500 shares as it is within the following 30 days and then with 1,500/4000 (1000+1500+1500) of the single asset pool on an average cost basis.

CGT annual exemption

Every tax year each individual is allowed to make gains up to the annual exemption without paying any CGT. This year's annual exemption is £9,600. Consideration should be given to ensuring both spouses/civil partners utilise this facility.

Other more complex areas

Capital gains can arise in many other situations. Some of these, such as gains on Enterprise Investment Scheme and Venture Capital Trust shares, and deferred gains on share for share or share for loan note exchanges, can be complex. Please talk to us before making any decisions.

Other reliefs which you may be entitled to

And finally, many existing reliefs continue to be available, such as:

- private residence relief;
- business asset roll-over relief, which enables the gain on a business asset to be deferred until a point in the future;
- business asset gift relief, which allows the gain on business assets that are given away to be held over until the assets are disposed of by the donee; and
- any unused allowable losses from previous years, which can be brought forward in order to reduce any gains.

How We Can Help

Careful planning of capital asset disposals is essential. We would be happy to discuss the options with you.

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