

Capital Gains Tax

New Rules – post April 2008

From 6th April 2008 the regime for CGT with respect to individuals, trustees and personal representatives has changed.

The rules for companies have NOT changed.

The main differences between the old and new are:

- New 18% main rate for CGT
- Additional 10% rate for the first £5m gains to be called Entrepreneur's relief (from 23rd June 2010 and only on certain gains made on business assets)
- CGT will not be linked to other income tax rates and bands
- All costs will be compulsorily rebased to 31st March 1982.
- Taper relief, indexation allowance and halving relief will be abolished (there are some exceptions).
- Simplification of the matching rules for certain assets (mainly shares) disposed of with assets acquired.
- The annual exemption remains in place (£10,100 2010/11)

Entrepreneurs Relief

The qualifying period is only one year and is not subject to any rules about age or illness and an individual will be able to make claims for relief on more than one occasion, but only up to a LIFETIME total of £5m gain.

The first £5m of lifetime gains on qualifying business assets will be charged at an effective rate of 10%. Gains over £5m will be charged at 18%

2010/11 NEW RULES

For gains on or before 22 June 2010, Capital Gains Tax is charged at a flat rate of 18 per cent.

The following Capital Gains Tax rates apply to gains after this date:

- 18 per cent and 28 per cent tax rates for individuals (the tax rate you use depends on the total amount of your taxable income, so you need to work this out first)
- 28 per cent for trustees or for personal representatives of someone who has died
- 10 per cent for gains qualifying for Entrepreneurs' Relief

Qualifying assets are

- Gains made on the disposal of all or part of an unincorporated business or partnership
- Gains made when an individual disposes of assets when a business ceases to trade.
- Gains made when an individual disposes of shares and securities in a trading company when
 - They have been an officer or employee of the company (or same group)
 - They own at least 5% of the ordinary share capital of the company and are entitled to exercise at least 5% of the voting rights.

In addition it is worth noting that a business is defined as

- Any trade
- Any profession
- Any vocation
- Excludes property letting BUT furnished holiday letting is counted as a trade

Other reliefs that will be affected will be Employee shares schemes, when after the annual exemption employees will be taxed at the flat rate of 18%. This means that employees with less than 5% of the voting capital will not be able to claim any relief, but employees with >5% may be eligible for entrepreneur's relief.

More information can be found at

<http://www.hmrc.gov.uk/rates/cgt.htm>

The following reliefs will continue to exist

Principle Private Residence relief and letting relief
Business asset roll over relief
CGT relief for VCT and EIS schemes
Business asset gift hold-over relief
Losses may also still be carried forward

PLEASE NOTE that 2010/11 has a split in the rate that will cause confusion and difficulties if not recognised for the 2010/11 tax returns.

PLEASE NOTE – changes to Entrepreneurs relief
<http://www.hmrc.gov.uk/cgt/businesses/reliefs.htm#1>