

## ***BUSINESS ASPECTS OF CAPITAL GAINS TAX***

Capital Gains Tax – CGT – is charged on the disposal of businesses and business assets.

### Individuals and partnerships – 2008/09 onwards

The basic calculation is the disposal proceeds less original cost, and less costs of sale. This gives the basic Capital Gain. This is subject to tax at 18%, unless Entrepreneurs Relief applies (ER).

ER applies to (i) the disposal of a business or (ii) the disposal of assets used in a business as part of selling a business (eg disposal of premises at the same time as selling the business generates ER, disposal of premises whilst the business is ongoing doesn't).

ER allows a maximum of £1m of gains to be charged at 10% rather than 18% - the £1m is a lifetime cumulative limit (counting from 6 April 2008 onwards).

ER was intended to partly replace the generous Business Asset Taper Relief that was abolished from 6 April 2008; ER is no where near so generous in either its scope or amount on like for like transactions.

### Individuals and partnerships – 2007/08 and earlier years

Prior to 6 April 2008 the basic Capital Gain was calculated in the same way, but from this figure would be deducted taper relief and, possibly, indexation. These reliefs were abolished from 6 April 2008 onwards.

The resultant gain was then added to income for the year, and taxed at 10%, 20% or 40% dependant on other income.

### Other reliefs

Other reliefs apply for CGT – the main ones are:

- Annual exemption - £9,600 2008/09
- Rollover relief (reinvestment in business assets) – a relief which defers CGT if the proceeds of a asset sale (proceeds, not gain) are reinvested in other business assets within a qualifying period of 12 months before or 36 months after disposal. The effect of rollover is to reduce the base cost of the new asset. If not all the proceeds a re-invested a partial relief is available, but it is not pro rata.
- Principle private residence – if you sell a business asset which has also been your home, eg a hotel or guest house, then part of the gain can be attributed to private residence. Lettings relief also applies.
- Transfer of a unincorporated business to a company (TCGA 1992 S162)
- Gifts of business assets (TCGA 1992 S165)

## Companies

Instead of CGT, gains are subject to Corporation Tax on gains.

Broadly speaking computational provisions are the same for the disposal of assets such as land, investments and equipment – i.e. disposal proceeds less original cost, and less costs of sale. This gives the basic Capital Gain.

Companies enjoy a relief for inflation known as indexation. They do not enjoy an annual exemption.

The resultant gain is then taxed at Corporation Tax rates as a supplement to profits for the year.

Companies can obtain rollover relief.

For companies, intangible assets, eg goodwill or licences, are treated in a different way – broadly speaking they are subject to a tax deductible depreciation, with any profit or loss charged to Corporation Tax.

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