



Taxation for Business

Capital Gains Tax

What is Capital Gains Tax?

If you sell or otherwise obtain value from an asset or indeed if you gift away an asset you may become liable to Capital Gains Tax. This is calculated on the 'increase in value' of the asset from when you purchased it or were gifted it from another person or from when it was initially created up to the date of sale / realisation of value from it. Capital gains tax is charged on the beneficial owner of an asset.

Assets transferred between husband and wife are not normally chargeable to capital gains tax providing that they are living together, however if you become estranged or divorce a charge could be made even where the disposal of the asset is other than by choice i.e. as part of a settlement on divorce or separation.

Assets that lead to a Capital Gains Tax charge

- Shares in a company
- Units in a unit trust
- Land and buildings
- High value jewellery, paintings and antiques
- Assets used in a business, such as goodwill

Capital Gains Tax is charged on worldwide situs assets when you are UK resident, however if you are non UK domiciled there is the possibility of deferring payment until the proceeds are remitted to the UK.

Assets not incurring Capital Gains Tax

- Private car
- Cash held in sterling
- Foreign currency held for your own or family's personal use
- Jewellery, paintings and antiques worth £6,000 or less.
- Savings certificates, premium bonds, British savings bonds

- UK government stocks 'Gilts'
- Assets held in ISA's or PEP's
- Betting, lottery or pools winnings
- Personal injury compensation

Revision of Capital Gains Tax System

The taxation of capital gains has been significantly revised from 6 April 2008. For all disposals, made on or after that date:

- Taper relief has been abolished
- Indexation allowance for individuals is no longer available
- The rules affecting the disposal of shares has been simplified

What are the main features of the current system?

- A flat rate of 18% applies to all chargeable gains
- New Entrepreneur's Relief may be available for certain business disposals.

What do the changes in the rules mean to me?

Any gains arising on or after 6 April 2008, and any held-over gains coming into charge on or after that date 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.

Entrepreneur's Relief

Entrepreneur's Relief provides an effective charge of 10% on the first £1 million of gain whether or not the taxpayer is higher rate! The £1 million maximum is applicable to gains arising post 6 April 2008, and is a lifetime maximum.

Entrepreneur's Relief applies to gains arising on a disposal of:

- the whole or part of a trading business

- shares in a trading company or holding company of a trading company (provided that the individual owns a 5% shareholding and has been an officer or employee of the company)
- assets used by a business or a company which has ceased (provided that they are disposed of within 3 years of the business ceasing)
- assets used in a partnership or by a company but owned by an individual (when disposed alongside either whole or part of a trading business or with shares in a trading company or holding company of a trading company).

Restrictions on obtaining the relief on 'associated disposals' are likely to apply in certain situations. For example, where a property is in personal ownership, but is used in an unquoted company or partnership trade in return for rent. Relief is restricted to the extent that this equates to full market value, proportionate relief may be given where rent is less than full market value. Careful planning will be required with Entrepreneur's Relief, so we recommend that you seek professional advice before embarking on disposal of business assets.

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.

What is my annual exemption?

Each year you are allowed to make gains up to the annual exemption, without being liable to Capital Gains Tax. In 2009/10 the annual exemption is £10,100. You should always ensure that both spouses / civil partners utilise this facility.

Are there any other reliefs I may be entitled to?

There are still many existing reliefs that continue to be available:

- Principal Private Residence Relief

- Business Asset roll-over relief (enables the gain on certain business assets to be deferred to a point in the future).
- Business Asset Gift Relief (Holdover Relief) allows the gain on certain business assets that are given away to be held over until the assets are disposed of by the donee.
- Any unused capital losses from previous years which can be brought forward to help reduce any gains.

How we can help

Careful planning is essential. Howsons can provide effective tax planning to substantially reduce the impact of the capital gains tax legislation, and in some circumstances, eliminate exposure entirely. We will review your affairs from a capital gains tax point of view and advise on any beneficial changes you might wish to make.

Call our Tax Specialists for more help

We have offices throughout Staffordshire and North Shropshire. Our Tax specialists are:

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