

# TAX

## Capital Gains Tax from 6th April 2008



### Entrepreneurs relief

The new 18% flat rate of Capital Gains Tax (CGT), which applies to disposals from 6 April 2008 by individuals, trustees and executors, will affect investors in a variety of ways.

### Example

### Non Business Assets

There will be no allowance for inflation [but see later for inter-spouse transfers before 6 April 2008].

### Example

- The original cost of the asset will be ignored if it was acquired before 31 March 1982, and market value at that date adopted as cost.
- The only relief is for 'entrepreneurs', who are to benefit from a 10% rate on a lifetime limit of £1 million gains.

### Capital Losses

### Inter-spouse transfers

### Entrepreneurs relief

Where the relevant conditions are met for at least a year entrepreneurs' relief is to apply to a maximum lifetime 'allowance' of £1m of -

- gains on disposals of all or part of a business (including gains on disposal of assets following the cessation of a business, within 3 years of that cessation) carried on by an individual, alone or in partnership;
- gains on disposals of shares in trading companies (or the holding company of a trading group), provided that the individual making the disposal 'has for at least the previous 12 months been an officer or employee of the company (or of a company in the same group) owned at least 5% of the ordinary share capital and in consequence held at least 5% of the voting power; and
- where an individual qualifies for the relief as a partner or shareholder, gains on an 'associated disposal' of an asset which was used in the partnership's or the company's business (but only to the extent that market rent was *not* derived from it.

Trustees will also be able to benefit from entrepreneurs' relief on gains on assets used in a business carried on personally by an individual with an interest in possession or by a partnership of which such an individual is a partner or by a company of which such a beneficiary is an officer or employee holding 5%, etc for at least the last 12 months. The trustees then share the £1m 'allowance' with the beneficiary.

The entrepreneurs' relief is to be in the form of a reduction of four-ninths of the gain, charging the remainder at 18%, to give an effective rate of 10%.

It is notable that entrepreneurs' relief is not extended to all disposals of.

# TAX

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unquoted shares in trading companies. The requirement to be a director or employee with at least 5% will exclude most people's holdings of share in AIM companies. And most employees' shareholdings in quoted companies (which currently qualify as business assets) will not be eligible for entrepreneurs' relief [Business Assets](#)

Although the entrepreneur relief will afford help for some, gains on business assets are particularly hard hit. These benefited from 75% taper relief in 2007/08 if the asset had been held for two years, giving a maximum effective tax rate of 10%. Business assets included property let to unquoted traders (without need for the landlord to have any other connection with the trader), shares in unquoted trading companies and shares in quoted companies held by their employees; a much wider definition than that for the entrepreneurs' relief.

### Example

A business asset was acquired in 1980 for £120,000. Market value at 31 March 1982 was £100,000 and indexation allowance is £125,640, so the inflation-adjusted cost is £245,640. The asset is sold in 2007/08 for £500,000, to give a gain before taper relief of £254,360. 75% taper relief reduces the chargeable gain to £63,590. The annual exemption of £9,200 is available to reduce the amount that is subject to tax, in this case at 40%, to £54,390, giving a tax liability of £21,756.

If the same asset is sold in 2008/09 and attracts entrepreneurs' relief, the gain before that relief is simply £400,000 (£500,000 less £100,000), because both the indexation allowance and the amount by which the original cost exceeded the market value at March 1982 are ignored.

### Non Business Assets

In many cases gains on non-business assets will be more lightly taxed. Taper relief for investors in listed shares, buy-to let residential property or property let to a listed company means that the tax rate on a gain in 2007/08 was 40% if the asset had been held for less than three years, only gradually reducing to an effective rate of 24% for assets owned for ten years. But not all such investors will benefit. The absence of any adjustment for inflation on disposals and, in some cases, the substitution of market value as at 31 March 1982 for original cost before that date, mean that gains on some assets acquired before April 1998 will be more heavily taxed after 5 April 2008.

### Example

A non-business asset was acquired in 1980 for £120,000. Market value at 31 March 1982 was £100,000 and indexation allowance is £125,640, so the inflation-adjusted cost is £245,640. Ignoring the annual exemption, if the asset is sold in 2007/08 for £500,000, the chargeable gain is £254,360 (£500,000 minus £245,640) and the tax liability at 24% is £61,046. In 2008/09, the chargeable gain would be £400,000 (£500,000 minus £100,000) and the tax liability at 18% £72,000.

# TAX

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### Capital Losses

An allowable capital loss arising in 2007/08 is set against the gains of the same year, reducing those which would attract the least amount of taper relief first. Any losses not set off are then carried forward to be used in later years. The reduction in the tax payable for 2008/09 will therefore be either 10% or 18% of the loss

### Inter-spouse transfers

Transfers between a husband and wife and between civil partners (unless separated) are neutral, in that the transferee is deemed to acquire the asset at such a figure as will result in neither nor a loss arising to the transferor for capital gains tax purposes. If the transfer was before 6 April 2008 and the transferor had acquired the asset before 6 April 1998, this means that the cost to the transferee will include any indexation allowance that would have accrued to the transferor up to April 1998. The transferee in these circumstances will have the benefit of that indexation allowance, where the transferor would not - had the asset remained with him or her.

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