

CAPITAL GAINS TAX (CGT)

Introduction

A capital gain will arise when there is a disposal of a chargeable asset for a profit. A chargeable disposal can be the sale, gift, exchange or loss of an asset. However, some assets are exempt from CGT - for example: cars, Treasury stock and chattels (tangible moveable property) worth less than £6,000. Transfers of assets between spouses/civil partners who are living together and transfers to registered charities are exempt from CGT.

Calculation of gains and losses

The chargeable gain/loss is generally calculated as the net proceeds received (after incidental costs of sale) less original cost (including incidental costs of acquisition). However, if you have gifted the asset or sold it to a connected person for less than what it is worth, the proceeds will be deemed to be the open market value.

The original cost is generally what you paid when you acquired the asset. However, if you inherited the asset, the cost will be the market value of the asset at the date of death. If you received the asset by way of gift or from a connected person, the cost will be the market value at the date of receipt. For disposals after 5 April 2008, any assets acquired prior to 31 March 1982 have a base cost equal to the 31 March 1982 value.

Each individual has an annual exemption which is £10,100 for 2010/11. This is the amount of gain you can make in 2010/11 without paying CGT. There are, therefore, CGT planning opportunities to ensure that both husband and wife have fully utilised their annual exemptions.

Any losses need to be claimed and are usually offset against gains in the same year. If the losses exceed the gains, the excess can be carried forward and offset against future years' gains.

Changes to the calculation of CGT from 6 April 2008

There were significant changes to CGT that came into effect from 6 April 2008. For disposals made after 5 April 2008, indexation allowance and taper relief ceased to be available and the complicated matching rules for the disposals of shares were simplified.

All shares of the same class in the same company acquired before the date of disposal are now pooled to form a single asset. Disposals post 5 April 2008 are matched firstly with any shares acquired on the same day as the disposal, then with any shares acquired in the 30 days following the disposal and finally with the remaining shares.

If assets acquired before 6 April 1998 were transferred to a spouse before 6 April 2008, indexation allowance will still form part of the base cost for the transferee spouse.

Changes from 23 June 2010

A flat rate of 18% applied to gains made between 6 April 2008 and 22 June 2010. The budget of 22 June 2010 announced that for assets sold on or after 23 June 2010 a second higher rate of 28% would be introduced.

The lower rate of 18% will apply to individuals where their total income and post 22 June 2010 capital gains fall into the basic rate band (£37,400 for 2010/11). The balance of any gains above the basic rate band will be taxed at 28%. Gains arising before 23 June 2010 will not be taken into account in determining the rate (or rates) at which gains arising on or after 23 June 2010 should be charged.

In calculating the CGT payable, individuals will be able to utilise losses and the annual exemption in the way which minimises the tax due.

Entrepreneurs Relief

Entrepreneurs relief was introduced with effect from 5 April 2008. Whereby relief may be claimed on the disposal of all or part of a qualifying trading business provided relevant conditions are met for at least one year ending with the disposal date. The relief will also apply to shares in a trading company provided you are an officer or employee of the company and you own at least 5% of the ordinary share capital and can exercise at least 5% of the voting rights.

When this relief was originally introduced, each individual had a lifetime limit of £1m of gains on which entrepreneurs relief could be claimed. This lifetime limit was increased to £2m for disposals between 6 April 2010 and 22 June 2010 and £5m from 23 June 2010. By claiming relief, gains that qualify will be charged to CGT at an effective rate of 10%.

Where prior to 23 June 2010 individuals have made qualifying gains above the previous £2m limit (£1m before 6 April 2010), no additional relief will be allowed for the excess. However if they make further gains on or after 23 June 2010 they will be able to claim relief on up to a further £3m of those additional gains (or up to a further £4m where the earlier £1m limit applied), giving relief on cumulative qualifying gains up to the new limit of £5m.

In determining at what rate(s) an individual should be charged to CGT on any other gains, those gains qualifying for entrepreneurs relief are set against any unused basic rate band before non qualifying gains

Property and CGT

Where a property is sold under an unconditional contract, the disposal date is the date contracts are exchanged. If the contract is conditional, the disposal date is the date on which the last of the conditions are met.

If the property being sold has always been occupied by you as your home and you have not elected for another property to be your 'Principal Private Residence (PPR)', the sale of the home will generally be exempt from CGT.

If you have been absent from the home for a period and the property has been let or vacant or if part of the property has been used for another purpose, e.g. a business, advice should be taken as to how much of the gain qualifies for PPR relief, as certain periods of absence can be treated as periods of occupation.

If the grounds/gardens of the home exceed half a hectare, advice should be taken as to whether full PPR relief can be claimed.

Where you own more than one residence, an election may be made as to which should be treated as your PPR. Deciding

which property to elect will depend on a number of factors, e.g. which is likely to produce the larger gain etc, and a married couple or civil partnership must nominate the same PPR. Any elections need to be made within two years of acquiring the second property. If no election is made, HM Revenue & Customs will decide which is the PPR based on the facts.

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Non-residents and CGT

If you are not resident in the UK for tax purposes, you are not chargeable to UK CGT. However, if you left the UK on or after 17 March 1998, the gains incurred since departure will only escape CGT if you remain outside the UK for at least five complete tax years. If you become UK resident again within five years, any gains made in the period of non residence in respect of assets owned at the date of leaving the UK will become chargeable to UK CGT in the tax year of return, provided you have been resident in the UK for at least four of the seven tax years before your departure.

Non-domiciled individuals

If you are not domiciled in the UK, you should seek advice regarding CGT, as this can be a complex area.

For further information please contact Ernst & Young. Contact details can be found on the Barclays Stockbrokers website. Please note this service is only available to Barclays Stockbrokers clients.