



CAPITAL GAINS TAX



WHEN IS CAPITAL GAINS TAX PAYABLE

- Capital Gains Tax is a tax on the profit when you sell (or 'dispose of') something (an 'asset') that's increased in value.
- It's the gain you make that's taxed, not the amount of money you receive.
- **Example:** You bought a painting for £5,000 and sold it later for £25,000. This means you made a gain of £20,000 (£25,000 minus £5,000).

Disposing of an asset includes:

- selling it
- Giving it away as a gift, or transferring it to someone else
- swapping it for something else
- getting compensation for it - like an insurance payout if it's been lost or destroyed

RATES OF CAPITAL GAINS TAX

- Annual exemption
 - £12,300 (individuals)
 - £6,150 (trustees)
- Rates of Capital Gains Tax:
 - 10% and 20% tax rates for individuals (not including residential property and carried interest)
 - 18% and 28% tax rates for individuals for residential property and carried interest
 - 20% for trustees or for personal representatives of someone who has died (not including residential property)
 - 28% for trustees or for personal representatives of someone who has died for disposals of residential property
 - 10% for gains qualifying for Entrepreneurs' Relief
 - 28% for Capital Gains Tax on property where the Annual Tax on Enveloped Dwellings is paid, AEA is not applicable
 - 20% for companies (non-resident Capital Gains Tax on the disposal of a UK residential property)

UTILISING THE ANNUAL ALLOWANCE

- Annual allowance of £12,300 cannot be accumulated if not utilised
- Sell asset in one tax year and repurchase in the next tax year
- Bed and breakfasting 30 day rule

You have a share portfolio with a market value of £100,000 which was acquired for £90,000 during the year. Your broker suggests you sell the portfolio to realise the capital gain of £10,000 and reinvest the funds in a different investment. No capital gains tax is payable because the gain is covered by your annual exemption.

If this was done each year then this could save capital gains tax equal to: Annual Exemption x number of years x rate of capital gains tax when you decide to realise the portfolio.

- Split gain over a number of tax years
- Gift value of the portfolio to utilise the annual exemption

SPOUSE TRANSFERS

- Transfers between Husband and Wife take place at cost so no capital gains tax is payable.
- Can be useful to utilise the spouses annual exemption and basic rate tax band.

You bought 10,000 shares, 7 years ago, at £10 a share. You sell them today at £20 a share. You are a higher rate tax payer and your spouse has no income.

- Capital gains tax when you sell the shares is **£19,975.40** ($(£100,000 - £12,300) \times 20\%$)
- If you transferred 50% of the shares to your spouse before sale the capital gains tax payable would be:
 - You: $£50,000 - £12,300 = £37,700 \times 20\% = £7,540$
 - Spouse: $£50,000 - £12,300 = £37,700 \times 10\% = £3,770$
 - Total capital gains tax payable: **£11,310** (£8,665 saving)

UTILISING LOSSES

- When you report a loss, the amount is deducted from the gains you made in the same tax year.
- If your total taxable gain is still above the tax free allowance, you can deduct unused losses from previous tax years. If they reduce your gain to the tax-free allowance, you can carry forward the remaining losses to a future tax year.
- If you have shares that have become worthless you can make a **negligible value claim**:
 - Treated as if you have disposed of for nil value and reacquired with no acquisition cost
 - Can be offset against capital gains or:
 - Income tax in certain circumstances (UK trading company, trading for 6 years prior to claim in a qualifying trade, carrying on its business predominately in the UK and not listed on a recognised stock exchange)

CAPITAL LOSS ALLOWED FOR IRRECOVERABLE LOAN TO A TRADING COMPANY

- Relief is available where a loan:
 - is made to a UK-resident borrower
 - is wholly for the purposes of a trade or to set up a trade, as long as they start trading
 - has not been assigned by the lender any right to recover that amount
 - is between the lender and the borrower who are not spouses or civil partners or companies in the same group when the loan was made or at any subsequent time_
 - becomes irrecoverable.

GIFT HOLDOVER RELIEF

Gift Hold-Over Relief means:

- you do not pay Capital Gains Tax when you give away the assets
- the person you give them to pays Capital Gains tax (if any is due) when they sell (or 'dispose of') them

You must:

- be a sole trader or business partner, or have at least 5% of voting rights in a company (known as your 'personal company')
- use the assets in your business or personal company
- You can usually get partial relief if you used the assets only partly for your business.

If you're giving away shares the shares must be in a company that's either:

- not listed on any recognised stock exchange
- your personal company
- The company's main activities must be in trading, for example providing goods or services, rather than non-trading activities like investment.

BUSINESS ASSET ROLLOVER RELIEF

You may be able to delay paying capital Gains Tax if you:

- sell (or 'dispose of') some business assets and use all or part of the proceeds to buy new assets
- Business Asset Rollover Relief means you will not pay any tax until you sell the new asset. You may then need to pay tax on the gain from the original asset.

You can also claim:

- provisional relief if you're planning to buy new assets with your proceeds but have not done yet
- relief if you use the proceeds to improve assets you already own

Eligibility

To qualify for Business Asset Rollover Relief:

- you must buy the new assets within 3 years of selling or disposing of the old ones (or up to one year before)
- your business must be trading when you sell the old assets and buy the new ones
- you must use the old and new assets in your business

You can claim relief on assets including:

- land and buildings
- fixed plant or machinery, for example a printing press

You must claim relief within 4 years of the end of the tax year when you bought the new asset (or sold the old one, if that happened after).

ENTERPRISE INVESTMENT SCHEME INVESTMENTS

- Income Tax relief is given at 30% on the cost of new EIS share investments.
- No CGT charged on any gain of EIS shares disposed of after the minimum holding period on which Income Tax relief was given and not withdrawn.
- CGT can be deferred if capital proceeds are invested in EIS shares
- There is no minimum amount an investor can invest in any one company. There is a maximum investment of up to £1 million.
- For investments made on or after 6 April 2018, the limit is increased to £2m provided at least £1 million is invested in Knowledge Intensive Companies (KICs).
- The maximum amount of investment that a qualifying company can receive in any given twelve months is limited to £5 million. From 6 April 2018, the limit is £10m for KICs.

BUSINESS ASSET DISPOSAL RELIEF

Business Asset Disposal Relief / Entrepreneurs relief

You'll pay tax at 10% on all gains on qualifying assets with a lifetime limit of £1m:

- **If you're selling all or part of your business**
 - you're a sole trader or business partner
 - you've owned the business for at least 2 years
- **If you're selling shares or securities**
 - you're an employee or office holder of the company (or one in the same group)
 - the company's main activities are in trading (rather than non-trading activities like investment) - or it's the holding company of a trading group
 - you've owned the business for at least 2 years
 - For at least 2 years before you sell your shares, the business must be a 'personal company'. This means that you have at least 5% of both the:
 - shares
 - voting rights
 - You must also be entitled to at least 5% of either:
 - profits that are available for distribution and assets on winding up the company
 - disposal proceeds if the company is sold

INVESTOR'S RELIEF

- It applies to gains made on the disposal of investments in ordinary shares.
- It only applies to disposals made after 6 April 2019.
- Share investments must have been made on or after 17 March 2016 and held for three years.
- It reduces the rate of tax charged on gains to 10% for higher rate taxpayers (lower rate taxpayers are already taxed at 10%).
- The investee company must be trading or the holding company of a trading group.
- Shares must have been subscribed for in cash.
- it is designed for investors who are not actively involved in the business, e.g. investors on the AIM market and business angels.
- Investors Relief is subject to a lifetime cap of £10 million (in addition to the £1 million lifetime cap for ER).
- Investments must be in unlisted shares.
- The company must be a trading company throughout.
- There is no minimum % shareholding requirement.
- Investors (or persons connected to them) must not be officers or employees of the company on subscription.
- Investors must not receive value in respect of their shareholdings. Dividends are allowed.
- Investments must be made on or after 17 March 2016, and held for at least three years starting from 6 April 2016.

SUBSTANTIAL SHAREHOLDING EXEMPTION

The substantial shareholding exemption exempts the disposal of certain shares in subsidiaries from corporation tax on any capital gain.

Broadly speaking, the exemption applies where the gain arises from:

- the investor company making the disposal must be a trading company or a member of a trading group, and
- the investee company must be a trading company or the holding company of a trading group (or subgroup), and the investing company held a 'substantial shareholding' (broadly, at least a 10% interest) investee company, and
- the shares were part of a total holding of at least 10% held for a continuous 12 month period beginning not more than two years before the disposal. If the shares are disposed of piecemeal then provided that this condition is met, a disposal of less than 10% can still be eligible for the exemption.

CONTACT DETAILS

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