

## **CAPITAL GAINS TAX: GENERAL RELIEFS**

### **Entrepreneurs' relief**

The relief was introduced from 6 April 2008 and has the following main features:-

- It applies to the disposal of the whole or part of a business, or on disposals of certain associated assets following the cessation of the business.
- It can be claimed by business owners (sole traders or members of a partnership) or officers or employees of a trading company who hold at least 5% of the voting rights.
- Qualifying gains are liable to a reduced 10% rate of Capital Gains Tax (CGT) subject to a lifetime limit for such gains of £10 million (this is not restricted to one disposal, it applies to multiple claims).
- Certain qualifying conditions must be met throughout one year prior to disposal.

### **Business asset rollover relief**

This rollover relief allows you to defer CGT when you reinvest the proceeds from the disposal of certain 'old assets' and purchase certain 'new assets' as replacements.

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#### **Who can claim relief?**

- If you are a trader who uses the old and new assets in the same trade or another trade carried on at the same time or within three years of ceasing the first trade.
- Those letting furnished holiday accommodation.
- If you occupy commercial woodland and manage them with a view to making a profit.
- Anyone carrying on a profession, vocation, office or employment.
- You provide an asset to your personal company (one in which you can exercise 5% or more of the voting rights); the new assets must be used in the trade of the same personal company.
- You have disposed of land by a compulsory purchase.

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#### **The assets**

The old and new assets must be:-

- interest in buildings or parts of buildings, or
- interests in land, or
- fixed plant or machinery, or
- ships, aircraft, hovercraft, satellites, space stations and spacecraft, or
- milk, potato or ewe and suckler cow premium quotas, or
- fish quotas, or
- payment entitlements under the Basic Payment Scheme, or
- Lloyd's syndicate capacities.

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#### **Period for reinvestment**

New assets must be acquired in the 12 months before and 36 months after the disposal of the old asset.

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#### **Restrictions**

The amount of deferred gain can be restricted where:-

- Only part of the proceeds from the old asset are reinvested in the new asset.
- You acquire depreciating assets (a different calculation is used).
- The old assets have only been used in the trade for part of the time.
- Only part of the asset was or will be used in the trade.
- You acquire the new asset with a view to making a profit from selling it.

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#### **Time limit**

You can make a claim within four years after the end of the tax year in which the later of either the disposal of the old assets or acquisition of the new assets took place.

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### **Incorporation relief**

This rollover relief applies to individuals or members of a partnership who incorporate their business by deferring any gain from the disposal of the old business until the shares from the new company are sold.

<b>Who can claim relief?</b>	Relief is given if the business:- <ul style="list-style-type: none"> <li>• together with the whole of its assets other than cash is transferred, and</li> <li>• is transferred as a going concern, and</li> <li>• is transferred in exchange wholly or partly for shares in the new company.</li> </ul>
<b>Automatic relief</b>	If the transfer qualifies, the relief is given automatically unless you make a written election to not have the relief:- <ul style="list-style-type: none"> <li>• If you sell the shares received from the incorporation in the tax year following the transfer, notice must be given before the first anniversary of the 31 January next following the tax year in which the transfer took place.</li> <li>• In all other cases, the election must be made before the second anniversary of the 31 January next following the tax year in which the transfer took place.</li> </ul>

### **Gift relief**

This holdover relief postpones all or part of the gain on the asset gifted until it is sold or disposed of by the person you gave it to.

<b>Business assets</b> (claim relief)	The asset is used for the purposes of a trade, profession or vocation carried on by:- <ul style="list-style-type: none"> <li>• you, individually, or in partnership, or</li> <li>• your personal company (exercise 5% or more of the voting rights), or</li> <li>• a member of a trading group whose holding company is your personal company.</li> </ul>
<b>Shares and securities</b> (claim relief)	Disposal of shares or securities of a trading company or holding company of a trading group if these are not listed on a recognised stock exchange. <ul style="list-style-type: none"> <li>• The Alternative Investment Market (AIM) is not a recognised stock exchange.</li> <li>• Exceptionally, some listed shares and securities can qualify.</li> </ul>
<b>Agricultural land</b> (claim relief)	If the land does not qualify as a business asset, relief can still be claimed subject to meeting the definition of agricultural property for Inheritance Tax (IHT) purposes.
<b>Gifts into trust</b> (claim relief)	Holdover relief is available when the disposal is a chargeable transfer for IHT purposes (generally, gifts into trust), but not for potentially exempt transfers (generally, gifts between individuals). <ul style="list-style-type: none"> <li>• This excludes trusts in which the settlor has an interest.</li> </ul>
<b>Charity and Works of Art</b> (automatic relief)	<ul style="list-style-type: none"> <li>• Gifts to charity, Community Amateur Sports Clubs and certain other bodies.</li> <li>• Gifts of works of art (where certain undertakings are given) and some sales of works of art (including transfers in settlement of an IHT liability).</li> </ul>

### **Chattels**

In general, most personal possessions you can both touch and move (chattels) are exempt from CGT:-

- Your private car.
- Machinery with a limited life (usually under 50 years).
- Personal possessions that are individually worth £6,000 or less at the time of disposal; adjustments may be required if the asset is part of a set or it is acquired and disposed of either side of £6,000.

This factsheet contains general advice only based on our understanding of current legislation. It should not be relied on as a basis for any decision or action. Professional advice specific to the situation should always be obtained.