



CAPITAL TAXES

Capital gains tax (CGT) reform

The Chancellor surprised everyone with major changes to the CGT regime. Legislation will be introduced next year to give effect to a new single rate of charge to CGT at 18%. A number of changes will be made for disposals made on or after 6 April 2008 to simplify the capital gains tax regime, including:

- the withdrawal of taper relief
- the withdrawal of indexation allowance
- simplification of the share identification rules.

CGT annual exemption

The annual exemption allows the first element of chargeable gains made in a given tax year to be exempt from CGT. An annual exemption will remain in place and for 2007/08 this is currently £9,200.

CGT rates of tax

Individuals making capital gains currently treat those gains as the top slice of income. This means that, currently, tapered gains are charged at 10% where gains plus taxable income do not exceed £2,230; 20% between £2,231 and £34,600; and 40% on any balance. For trustees the rate of CGT is 40%.

For 2008/09 there will be a single rate of capital gains tax set at 18%, which will apply to individuals, trustees and personal representatives.

CGT reliefs

Taper relief was introduced for disposals on or after 6 April 1998 and can reduce the amount of the gain chargeable to CGT. The amount of relief available depends on whether the asset is classed as a business or non-business asset and, also, on the length of time an asset has been held since 1998.

For disposals on or after 6 April 2008 and any held over gains coming into charge on or after that date, taper relief will no longer be available. The chargeable gain will be liable to tax at 18%, after deducting allowable losses, any other reliefs and the annual exemption.

Indexation allowance was, for individuals and trustees, the precursor to taper relief and gave relief for the effect of inflation on the costs incurred on assets. Indexation was frozen as at 5 April 1998. Currently, where an asset was held at 6 April 1998 and is disposed of after that date, any gain on the disposal may be eligible for indexation and taper relief.

For disposals on or after 6 April 2008 indexation allowance will no longer be available.



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Simplification of the share identification rules

The current rules for the identification of shares and securities for CGT purposes require a complex order of identification, which is dependent upon the dates when the assets were acquired.

Due to the changes to taper relief and indexation allowance, all shares of the same class in the same company will be treated as forming a single asset from 6 April 2008, regardless of when they were originally acquired. However certain anti avoidance rules will remain.

Comment

The major changes announced will mean that CGT calculations will become a lot simpler. However although an 18% rate of CGT sounds low, there will be many losers.

Consider a higher rate taxpayer who makes a gain on £1m on a business asset. Business asset taper relief is available at 75%, so, in simple terms, only £250,000 is chargeable at 40%, a bill of £100,000.

Under the new rules, the whole of the £1m is chargeable at 18% a bill of, £180,000. Simplification may come at quite a price!

Planning Gain Supplement (PGS)

The PGS has been the subject of consultation since 2004 and, although no definite start date has yet been announced, it is expected to be introduced where planning permission is granted after 31 March 2009. The following principles have been established:

- the PGS will be levied at a flat rate on the difference in the value of land without planning permission and the freehold value with full planning permission
- both residential and commercial developments will be included
- there is unlikely to be any exemption for small scale developments such as building a single house in a back garden
- the developer will pay the PGS within 60 days of the date the development commences
- the developer will have to self assess the PGS and obtain the necessary valuations.

Comment

The PGS is designed to encourage landowners to release land for development, although how a tax on this action will achieve this aim remains to be seen. Landowners and developers need to consider the impact of the PGS on proposed developments that may not commence until after 31 March 2009.



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Stamp Duty and Stamp Duty Land Tax (SDLT) changes

To continue the theme of simplification, further changes are proposed from next year.

Firstly for transactions involving residential and non-residential property where the chargeable consideration is less than £40,000, there will no longer be a need to notify HMRC about the transaction.

Secondly transfers that currently attract stamp duty not exceeding £5 will be exempt and will not have to be presented for stamping.

Finally for transactions that occurred on and after 19 July 2007, where there is a transfer of an interest in a property within an investment partnership, there will be no charge to SDLT.

Inheritance tax (IHT) threshold

The IHT nil rate band was increased to £300,000 with effect from 6 April 2007.

Transfers of property between spouses or civil partners are generally exempt from IHT. This means that if an individual dies and leaves some or all of their property to their spouse or civil partner, they may not have fully used their nil-rate band.

The new rules will allow any nil-rate band unused on the first death to be used when the surviving spouse or civil partner dies. The transfer of the unused nil-rate band from a deceased spouse or civil partner, irrelevant of the date of death, may be made to the estate of their surviving spouse or civil partner who dies on or after 9 October 2007.

The amount of the nil-rate band available for transfer will be based on the proportion of the nil-rate band which was unused when the first spouse or civil partner died.

For example, on the first death none of the original nil-rate band was used because the whole of the estate was left to the surviving spouse. If the nil-rate band is £350,000 when the surviving spouse dies, it would be increased by 100% to £700,000.

Comment

This is an interesting way of addressing a problem that has arisen over recent years, namely that house price increases have meant that many people have been dragged into the IHT net. Certainly the change will help address this issue.

For more information, contact Hugh Davies on 01722 336647.

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