

Autumn Budget

Capital Taxes



Highlighting capital gains tax changes.

Capital gains tax (CGT) rates

The current rates of CGT are 10%, to the extent that any income tax basic rate band is available, and 20% thereafter. Higher rates of 18% and 28% apply for certain gains; mainly chargeable gains on residential properties with the exception of any element that qualifies for private residence relief.

There are two specific types of disposal which potentially qualify for a 10% rate, both of which have a lifetime limit of £10 million for each individual:

- Entrepreneurs' Relief (ER). This is targeted at working directors and employees of companies who own at least 5% of the ordinary share capital in the company and the owners of unincorporated businesses.
- Investors' Relief. The main beneficiaries of this relief are external investors in unquoted trading companies.

CGT annual exemption

The CGT annual exemption is £11,300 for 2017/18 and will be increased to £11,700 for 2018/19.

ER - relief after dilution of holdings

The government will consult on how access to ER might be given to those whose holding in their company is reduced below the normal 5% qualifying level as a result of raising funds for commercial purposes by means of issues of new shares. Allowing ER in these circumstances would incentivise entrepreneurs to remain involved in their businesses after receiving external investment.

Comment

This proposal is welcome and addresses a particular problem which can arise. ER broadly requires a holding of 5% of the ordinary share capital. It may be that significant external investment is made which would reduce the holding to below 5%.

For example, Bill owns 33% of the original share capital of 100 shares issued at par. John invests £30,000 in the company in return for 30,000 new shares. This reduces Bill's holding to 33 of 30,100 shares, below the 5% limit. It appears that the government intend to address this problem.

CGT payment window

The government had previously suggested that capital gains tax would have to be paid within 30 days of the sale of a residential property but this proposal has now been deferred until April 2020.

Extending the taxation of gains made by non-residents

The government announced that from April 2019 tax will be charged on gains made by non-residents on the disposal of all types of UK immovable property. This extends existing rules that apply only to residential property.

This measure expands the scope of the UK's tax base with regard to disposals of immovable property by non-residents in two key ways:

- all non-resident persons' gains on disposals of interests in UK land will be chargeable and
- indirect disposals of UK land will be chargeable.

Inheritance tax (IHT) nil rate band

The nil rate band has remained at £325,000 since April 2009 and is set to remain frozen at this amount until April 2021.

IHT residence nil rate band

An additional nil rate band is now available for deaths on or after 6 April 2017, where an interest in a residence passes to direct descendants. The amount of relief is being phased in over four years; starting at £100,000 in the first year and rising to £175,000 for 2020/21. For many married couples and registered civil partners the relief is effectively doubled as each individual has a main nil rate band and each will potentially benefit from the residence nil rate band.

The additional band can only be used in respect of one residential property, which does not have to be the main family home, but must at some point have been a residence of the deceased. Restrictions apply where estates are in excess of £2 million.

Where a person died before 6 April 2017 their estate did not qualify for the relief. A surviving spouse may be entitled to an increase in the residence nil rate band if the spouse who died earlier had not used, or was not entitled to use, their full residence nil rate band. The calculations involved are potentially complex but the increase will often result in a doubling of the residence nil rate band for the surviving spouse.

Downsizing

The residence nil rate band may also be available when a person downsizes or ceases to own a home on or after 8 July 2015 where assets of an equivalent value, up to the value of the residence nil rate band, are passed on death to direct descendants.

Comment

When planning to minimise IHT liabilities we now have three nil rate bands to consider. The standard nil rate band has been a part of the legislation from the start of IHT in 1986. In 2007 the ability to utilise the unused nil rate band of a deceased spouse was introduced enabling many surviving spouses to have a nil rate band of up to £650,000. From 6 April 2020 some surviving spouses will be able to add £350,000 in respect of the residence nil rate band to arrive at a total nil rate band of £1 million.

Individuals need to revisit their wills to ensure that the relief will be available and efficiently utilised.

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