

Important changes to capital gains tax

In his autumn statement, the Chancellor announced significant changes to the UK capital gains tax regime for individuals, trustees and personal representatives for gains made on or after 6 April 2008. Legislation will be enacted in Finance Bill 2008 to bring the new regime into force from that date. No draft legislation is currently available.



All capital gains made on or after 6 April 2008 will be taxed at a flat rate of 18%. This is irrespective of the marginal income tax rate of the taxpayer concerned. This rate will apply to individuals and trusts.

The existing capital gains tax rules will apply for disposals made up to 5 April 2008. Companies liable to corporation tax are not affected by these proposals.

The basics

The proposed changes are as follows:

- All capital gains made on or after 6 April 2008 will be taxed at a flat rate of 18%. This is irrespective of the marginal income tax rate of the taxpayer concerned. This rate will apply to individuals and trusts.
- The current system of taper relief will be abolished.
- The system of indexation allowance, which was in place prior to the introduction of the taper relief rules, will also be abolished.

In addition, certain other rules will be amended or abolished including, compulsory use of market value at 31 March 1982 for assets held at that date, abolition of 'halving relief' and simplification of share identification rules.

It should be noted that the annual exemption for capital gains tax, i.e. the amount that can be earned before paying capital gains tax, will remain in place.

The detail

The proposed changes are as significant as those in 1998 when the taper relief rules were introduced. Those anticipating paying capital gains tax at a certain rate, whether 10%, 40% or some rate in between, will find a significantly different rate applying to their capital gains.

Those individuals whose assets currently fall within the non-business asset taper relief regime are likely to be significantly better off under the new rules. Subject to any anti-avoidance provisions (see below) it would appear better to delay a disposal until after 6 April 2008 and benefit from the new 18% rate.

People who are expecting to achieve gains with an effective rate of 10% (under the business asset taper relief regime) are likely to be worse off in respect of any disposals of those business assets after 6 April 2008. Consideration should

be given to action to improve this potential situation, in particular if a sale is in progress or envisaged in the near future, as it may be possible to protect the 10% rate.

The loss of indexation allowance may have a significant impact for those who have held their assets for a significant period prior to 1998 and therefore accrued a significant amount of indexation, as no indexation allowance at all will be available from 6 April 2008.

The compulsory use of market value at 31 March 1982 may affect a minority of taxpayers whose capital gains tax asset was held at that date and whose value at that date was less than cost acquisition.

Since no legislation has yet been issued in respect of the proposals, it is not clear whether there will be anti-avoidance provisions to prevent people taking advantage of their situation by ensuring their gains are taxed under either the current or new regime.

In summary

The proposed changes will have a significant impact on the capital gains tax regime in the UK for individuals, trustees and personal representatives.

Action may need to be taken prior to 6 April 2008, if possible, in order to ensure that you are not adversely affected by the new rules.

If you think you are affected by these changes, and would like to discuss how to minimise your potential taxes, please contact your normal Moore Stephens adviser.

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