

Capital Gains Tax changes April 2008

From 6 April 2008 Capital Gains Tax (CGT) changes considerably.

The main change is that the rate of CGT will be around 18%, and for individuals who expected to pay it at a rate of 10% for business assets this is almost twice as much as they may have been prepared for.

If you have an asset sale lined up you can possibly bring it forward. If not, you can consider the following:

1. The Chancellor has promised "Entrepreneurs' Relief" so that the first £1m of gains on a business sale will still be taxed at 10%.

However, note that this new relief will apply only to sales of businesses. If someone ceases a business and sells it off, it will still qualify, but if someone in business simply sells on a business asset it won't.

For example — a farmer who just sells a field will pay tax at 18% after 6 April 2008. But a farmer who sells on his dairy fields when he ceases dairy farming, even though he keeps his arable fields, may well still qualify, as an actual business is being disposed of.

2. From 6 April 2008, we also lose indexation allowances.

One way to "bank" indexation and keep it for the future is to transfer assets between husband and wife on a no gain/no loss basis. Recently HMRC produced some "Frequently Asked Questions" on the subject of CGT reform and this confirmed that this seems to work.

However, it may not be quite that simple. It looks as though, for assets held on 31/3/82, for special technical reasons this ability to "bank" indexation might not work, but for assets acquired afterwards it's fine. HMRC may be looking at dealing with this unfairness.

That means that a transfer between spouses should at least in some cases mean you can "bank" the indexation allowances. And for assets at 31 March 1982, even if banking the indexation turns out not to work you won't be any worse off (with the exception of costs and possible Stamp Duty on the transfer).

3.If you would like to dispose of assets before 5 April, but you don't have the time, one solution is to make a disposal to a connected person and pay the CGT on that disposal at current rates. Then any further sale on will be by that connected person.

Alternatively, you can transfer the assets to a trust. However, this is a lot more complicated, because of the Inheritance Tax issues that need to be sorted out.

This information is based on draft legislation and hence there is still some uncertainty about how all this will work. What is more, if you try to implement any scheme to lock into current CGT rates or "bank" indexation, there may be implications for other taxes.

Please ensure that you discuss matters with your usual Critchleys contact prior to taking any action based on this. Alternatively contact Gerry Jackson on 01865 261100 or email gjackson@critchleys.co.uk