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Capital Gains Tax (CGT)

In this factsheet we set out how Capital Gains Tax (CGT) works and when it may apply.

We deal with many calls about CGT. Callers are naturally concerned that it may apply when selling an asset, particularly shares and property. A common misconception is that if you dispose of an asset but do not receive any cash it will not apply. In the majority of situations this will not be the case, so here are some key facts you need to know.

What is CGT?

CGT is a tax on any increase in the value of an asset when it is transferred by sale or gift to a third party. It also applies to a sale or transfer at an undervalue i.e. at less than the true value of the asset.

How is CGT calculated?

In its simplest form, the gain will represent the difference between the amount received and the amount paid for the asset. In addition, incidental costs of acquisition and disposal may be deducted. Examples include a broker's fee in relation to a disposal of shares or solicitor's fees in connection with a property sale.

In relation to property, a deduction will be permitted for enhancement expenditure which is reflected in the selling price of the asset, such as the addition of a conservatory or extension, but not the odd lick of paint that might be applied prior to any sale.

Any resultant profit is a chargeable gain. If a loss arises it may be carried forward and offset against chargeable gains in future tax years. If, however, there has been more than one disposal in a given tax year - some of which have generated gains and others losses - then these will be offset against one another to arrive at a net figure.

It should be noted that special provisions apply where losses arise upon disposals to connected persons (typically a family member) which restrict the way losses may be utilised. Each individual is entitled to a tax-free allowance which serves to reduce the level of taxable gains – for 2017/18 this allowance is £11,300. For disposals made by trustees, other than trustees for the disabled and personal representatives, the corresponding allowance is £5,650.

What about gifts and assets that are inherited?

Where gifts are involved, it is assumed for CGT purposes that the value of the asset is as if it had it been sold on the open market at the time of transfer. Similarly, beneficiaries are deemed to acquire assets at their market value as at the date of death, often referred to as probate value.

When gifts or inherited items are disposed of, the market value/probate value is used as the relevant cost figure in any calculations. If the asset is sold for more than this value, CGT will be applied to that gain (subject to the tax-free allowance above).

Are there any assets which are exempt from a tax charge?

The major exempt asset will be an individual's main residence, provided it has been owned and occupied throughout as a main residence. This is known as Principal Private Residence (PPR) relief. In assessing whether full PPR relief is due, certain periods of absence are permitted but these often come with conditions attached. This can be a complex area and further guidance can be found in the HMRC Helpsheet HS283 here.

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Advice in this area is more popular with the increase in buy-to-let properties and may need careful consideration if this applies.

Other items which are exempt include, but are not restricted to, the following:

- your car
- NISAs, ISAs and PEPs
- UK Government Gilts and Premium Bonds
- personal belongings worth £6,000 or less per item or per set
- betting, lottery or pools winnings

Transfers of assets between spouses/ civil partners

Special rules apply in relation to transfers between spouses and civil partners who are living together. In these cases, there is no immediate charge to CGT and the recipient spouse is deemed to have acquired the asset at the same value/cost as that paid/deemed to have been paid by the transferor. This is referred to as a no gain/no loss transfer.

The rules change for any transfers made after separation. If you are married or in a civil partnership and then separate, any transfers made in the tax year after separation, but before divorce, will be deemed to have been made at a consideration equivalent to market value.

At what rate will I pay CGT?

The rate of CGT payable will depend how much taxable income you have in the tax year of disposal(s). The gain is treated as the top slice/part of income and is added to all other taxable income. Depending on the level of gain and the nature of the asset disposed of, the relevant tax rates applicable to the gain(s) will be as follows:

a. 18 per cent for those whose income will remain within the basic rate income tax bracket after factoring in the gain - applicable to disposals of residential property. For all other assets a 10% rate applies.

b. 28 per cent for taxpayers who are already within the higher rate tax bracket(s) without taking the capital gain(s) into account- applicable to disposals of residential property. For all other assets a 20% rate applies.

c. 28 per cent for disposals by trustees and personal representatives where the asset represents residential property. For all other assets a rate of 20% applies.

d. 10 per cent for gains on which Entrepreneurs' Relief is available

Entrepreneurs' Relief applies, for example, on disposal of a business. Further information about this relief can be found in the HMRC helpsheet here.

For those whose gain takes them into the higher rate income tax bracket, the gain will be split into two parts. The gain still falling within the basic rate band will be taxed at the lower rate and the balance at the higher rate.

When is CGT payable?

As a general rule, CGT is payable on or before 31 January following the end of the tax year in which the relevant disposal(s) take place and forms part of the standard self-assessment tax return process. In limited circumstances it is possible to defer the payment. It is advisable to seek professional advice in this instance. Further guidance on this may be found in the HMRC site.

HS295 Relief for gifts and similar transactions (2015)

HS297 Enterprise Investment Scheme and Capital Gains Tax (2015)

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