PEMBERTON GREENISH

New Rules for Capital Gains Tax

As part of its drive to simplify the tax code, the Government announced a number of changes to Capital Gains Tax. As with all changes to taxation there are winners and losers.

Single tax rate of 18%

A single rate of 18% will apply to all disposals made on or after 6th April.

While this may benefit many individuals, particularly those who are higher rate taxpayers disposing of non-business assets, it is by no means good news for others. Basic or lower rate taxpayers disposing of the same asset could be worse off. And for those with assets qualifying for full Business Asset Taper relief and an effective tax rate of 10% the new rate is almost double.

There are other changes which will affect the overall tax bill.

Withdrawal of Indexation Allowance

Indexation, (a measure to compensate for the effect of inflation on gains) is to be withdrawn on 6th April. Gains will be calculated by reference to their 31st March 1982 value or later actual acquisition value, without adjustment for inflation.

Indexation can reduce significantly the taxable gain on assets held long term. In some cases the loss of this relief will result in a higher tax bill despite the new 18% tax rate: the rate might be lower but the gain on which the rate will bite will be bigger.

Identification of shares – Bed & Breakfasting

Abolishing taper relief sees the re-introduction of "pooling" to establish a universal base cost for all the individual shares within a holding. Subject to the application of anti-bed-and-breakfasting "30 day rule" (which stays) the old last-in-first-out rule will cease to apply. Each share within a holding built up over time will have the same base cost as all the others, calculated as an average of the different acquisition costs. Calculating the tax on an actual disposal, or a proposed disposal, will now be much simpler.

Spouse to Spouse

Transfers of assets between spouses will continue to be on a no gain no loss basis: the transfer is not a disposal for the purposes of Capital Gains Tax, and the asset is transferred with its base cost and history.

Is there any hope for those who will be badly hit?

At the time of writing, draft legislation is awaited, and lobbying on behalf of the worst hit seems likely.

"...there is a wider concern in that the serial entrepreneur, those that build businesses, will still be hit by the proposals to have a higher single rate of 18%. This will damage the entrepreneurial culture in the UK."

David Frost - Director General of the British Chambers of Commerce

Assuming that the new rules come in to force, what can be done?

The obvious "sell before the 6th April" advice may be sound from a tax perspective, but like all tax advice must be taken in the broader financial or commercial context. It will rarely be appropriate for those hardest hit – owners of private company shares.

However using gifts and, where appropriate, trusts can in certain cases lock in the benefit of the existing regime and minimise the impact of the budget changes.

We will be happy to provide advice specific to your circumstances when full details of the changes are known.

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