



INFORMATION SHEET.

New Capital Gains Regime

As you may be aware, the Chancellor announced in his pre Budget speech that he will be introducing a single rate of capital gains tax of 18% and would be abolishing taper relief, indexation allowance and “halving relief” in respect of any capital gain realised from 6 April 2008. The result of these changes is that clients need to consider whether they should be looking to crystallise some of their capital gains before 5 April 2008 to ensure they take advantage of any of the reliefs that will be effectively lost from April. This will apply mainly to assets for which the business asset taper relief applies, but should also be considered for other assets, particularly those held for a long time.

The new regime commences from 6 April will mean that any capital gain that is realised will be taxable at 18%, but the Chancellor has confirmed that he will be introducing something that is to be known as entrepreneurial relief, which effectively means that in regard to the first £1million of gain that relates to an individual on disposals of the whole or part of his trading business, there will be allowed relief so that the effective rate of tax on the gain is reduced to 10%. The £1million relief is a lifetime total and, therefore, can be applied to more than one gain as long as the total gain is below the £1million. Any excess gains over the £1million will be subject to 18% tax.

The Government has at last published the draft legislation (<http://www.hmrc.gov.uk/cgt/centre-relief-draft.pdf>) but have indicated that this relief will only apply to trading assets and not property that has been used in a letting business other than furnished holiday lets, but it will apply on a disposal of private company shares subject to certain rules including the fact that the individual remains an officer or employee of the company and owns at least 5% of the ordinary share capital of that company and this entitles him to a minimum of 5% of the voting rights.

Furthermore, if a company director who owns the premises from which his company carries on its business sells the premises at the same time as he sells his shares in his company, the sale of the premises may count as a disposal, which qualifies for entrepreneurial relief. The difficulty here is defining exactly what the Government mean by the phrase “trading business”. This was defined in 1998, changed in 2000 and again in 2004 and will be again in April 2008! What you may think of as a business asset may well have been so for some but not necessarily all of the time of ownership. The relief will be restricted where the asset was not wholly in business use throughout the period it was owned.

We would suggest that clients who may be affected by this contact us as soon as possible to discuss what actions should be taken either before or after 5 April 2008 as appropriate.

The above is intended to offer the user general information of interest only. For advice on individual cases, please contact us to arrange a free informal and no obligation initial meeting.