Capital Gains Tax (CGT)

Unlike Income Tax and Corporation Tax, which are predominantly taxes on income and profits, CGT is a tax based on the profit or chargeable gain you make when you sell, or otherwise dispose of something, for more than you paid for it.

When is CGT payable?

A charge to CGT usually arises after you sell an asset but can also occur when you:

- give away a chargeable asset;
- transfer a chargeable asset to another person;
- exchange a chargeable asset for something else; or
- receive compensation for the loss or destruction of an asset, e.g. an insurance pay-out.

At its simplest, a capital gain is calculated by deducting the cost (including legal and improvement costs) from the sale proceeds of an asset disposal.

How much CGT is payable on chargeable gains?

The following rates for individuals apply to gains made in the tax year 2022-23.

- Everyone is allowed to make a certain amount of tax free capital gains each year. This 'annual exempt amount' is currently £12,300 for individuals and £6,150 for trusts.
- CGT is charged at a simple flat rate of 20% and this applies to most chargeable gains made by individuals.
- If taxpayers only pay basic rate tax and make a small capital gain they may only be subject to a reduced rate of 10%. Once the total taxable income and gains exceed the higher rate threshold, the excess will be subject to 20% CGT.
- An 8% surcharge applies to the sale of chargeable residential property (apart from a principal private residence) and carried interest (the share of profits or gains that is paid to asset managers).
- A lower rate of 10% also applies to capital gains that qualify for Business Asset Disposal Relief or Investors' Relief.

For individuals with a CGT tax bill to pay, the actual payment deadline would be the 31 January following the end of the tax year during which the chargeable gain was made. For example, for the tax year ending 5 April 2022, any CGT due must be paid by 31 January 2023 to avoid penalties and interest.





Any chargeable gains on the sale of residential property have to be submitted to HMRC within 60 days (30 days prior to 27 October 2021) of the sale completing. Any CGT due must also be paid in the same 60 day period.

Do the above rates apply if my company makes a capital gain?

The comments on this information sheet apply to individuals. If your limited company makes a capital gain it is subject to Corporation Tax, not CGT. The chargeable gain is calculated in a similar way, but the resulting gain is simply added to the companies trading profits and the total is subject to Corporation Tax at the current rates.

If your business is a partnership, any gains will be split between the partners and taxed individually at the prevailing CGT rates.

Is it better to own assets in a company if the overall tax payable is less?

In certain circumstances, the initial comparison of CGT payable if an asset is owned by a company or an individual, may show that owning and selling the asset in a company may produce a lower tax bill.

However, if the owners of the company want to withdraw the after-tax proceeds from the company for their own use, they will likely be obliged to pay additional Income Tax. For this reason, the question of company or personal ownership of assets subject to CGT needs careful planning consideration.

Other reliefs and factors to consider

1. Transfers or gifts of assets between married couples and civil partners: All transfers in this category are free of any charge to CGT. The person receiving the asset acquires it for CGT purposes at the original cost to the gifting partner.

2. Losses: Sometimes you may sell an asset for less than you paid for it. In such circumstances you would make a capital loss. You can typically deduct capital losses from capital gains made in the same or future years. As a general rule, if the asset would have been liable to CGT had a gain taken place then the loss should be an allowable deduction.

3. Selling your home: Most people are aware that they do not have to pay CGT when they sell their principle private residence, their home. The exemption does contain restrictions, for example, you may have some CGT to pay if:

- The house was not used only as a main residence throughout the period of ownership;
- You sell part of the garden or grounds, and the overall area of land and buildings are greater than 5,000 square metres;
- Part of the home was used exclusively for business purposes;
- All or part of the home has been rented out at some point during your period of ownership.

4. Other exemptions from CGT include:

- Assets sold for less than £6,000 (e.g. antiques and paintings);
- Wasting assets (e.g. cars and wine);
- Stocks and shares held in an ISA account;
- National savings certificates and premium bond prizes;
- Winnings from betting, lottery or the pools;
- Compensation for personal injury;
- Qualifying enterprise investment schemes.

None of the above exemptions apply when the gains arise through trading or business activities as distinct from occasional sales and disposals.



5. Non-UK residents and CGT: There is a CGT charge on the sale of UK residential property by non-UK residents. Only the amount of the overall gain relating to the period after 5 April 2015 is chargeable to tax. Private residence relief where a property is the owner's only or main residence will apply under certain circumstances.

6. Business Asset Disposal Relief (BADR): When you sell a business, shares in a trading company or your interest in a trading partnership, you may be able to claim this relief, in which case your CGT liability will be limited to 10% of the chargeable gain. The present limit for this relief is lifetime gains of up to £1m (£10m prior to 11 March 2020).

7. Investors' Relief: A variant of BADR, called Investors' Relief, is available to investors in unlisted trading companies. This relief applies a 10% rate of CGT to gains accruing on the disposal of ordinary shares in an unlisted trading company up to an additional lifetime cap of £10 million. Shares must be held for a minimum period of three years to qualify.

Other reliefs from CGT on the disposal of business assets include:

1. Business Asset Roll-Over Relief: where you "roll-over" the gain into the purchase of a replacement asset.
2. Incorporation Relief: this defers any potential CGT charge when you transfer business assets from a sole trader or partnership into a limited company structure.
3. Gift Hold-Over Relief: this defers payment of CGT until the gifted asset is subsequently disposed.

How we can help

We would welcome the opportunity to help you plan for the disposal of assets subject to CGT. There are plenty of pitfalls for the unwary. We always endeavour to ensure that clients would pay the minimum tax due, consistent with current legislation.

Summary action list

- If you are married or in a civil partnership, consider sharing in the ownership of assets as in some cases this can double CGT reliefs available when you sell.
- If you acquire chargeable assets from a deceased person's estate the base cost for CGT purposes is the market value at death and not the amount paid for the asset. Bear this in mind if you decide to sell at some future date.
- Due to the number of reliefs available to reduce or defer any CGT payable on the disposal of a chargeable asset, take advice before completing the sale. Many planning options disappear once a transaction to sell completes.

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