



Capital gains tax is payable by individuals and trustees on gains realised on the disposal of chargeable assets.

Rates applying for 2023/24

Capital gains tax is charged at the rate of 10% where income and gains do not exceed the basic rate limit. This is set at £37,700 for 2023/24. Once the basic rate band has been used up, chargeable gains are taxed at 20%.

Higher rates apply to gains on residential property and carried interest – 18% where income and gains fall within the basic rate band and 28% otherwise.

Annual exempt amount

The annual exempt amount is equivalent to a personal allowance for income tax purposes and available to all taxpayers. The annual exempt amount is set at £6,000 for 2023/24 (down from £12,300 for 2022/23). The annual exempt amount is to be further reduced to £3,000 for 2024/25. The annual exempt amount reduces net gains in the year (chargeable gains less allowable losses). It is applied before using allowable losses carried forward from earlier tax years.

With the annual exempt amount set to fall from 6 April 2024, consideration should be given to the timing of disposals and whether it would be better to dispose of an asset prior to 6 April 2024 rather than on or after that date to take advantage of the higher annual exempt amount applying for 2023/24.

Spouses and civil partners can realise chargeable gains of £12,000 tax-free in 2023/24; this falls to £6,000 for 2024/25.

Spouses and civil partners

Spouses and civil partners benefit from the ability to transfer assets between them at a value that gives rise to neither a gain nor a loss. This means that there is no capital gains tax to pay when one spouse or civil partner sells or transfers an asset (or a share in an asset) to their partner. The transferee spouse/civil partner simply takes on the transferor's base cost.

The ability to make no gain/no loss transfers is very useful from a tax planning perspective. It allows couples to transfer assets or a share in an asset prior to a disposal to a third party to access unused annual exempt amounts and basic rate bands.

Main residence exemption

One of the most useful capital gains tax exemptions is that applying in respect of the taxpayer's only or main residence. No capital gains tax is payable on a gain on a property that has been the taxpayer's only or main residence throughout the whole period of ownership.

Where the property has only been the main residence for some of the time that the taxpayer has owned the property, the exemption shelters the period for which the property was the only or main residence and the last nine months (last 36 months where the taxpayer goes into care).

Spouses and civil partners can only have one main residence between them.

When a second home is acquired, the taxpayer can elect (within two years of the date that the new home is acquired) which property is the main residence for tax purposes. The ability to 'flip' main residences opens up tax planning opportunities.

Residential property gains

Special rules apply where a gain is made on a residential property. This may be the case where an investment property or second home is sold, or a home has not been the taxpayer's main residence throughout the period of ownership.

Residential property gains are taxed at 18% where income and gains do not exceed the basic rate limit and at 28% once this has been used up.

The chargeable gain must be reported to HMRC online within 60 days of the date of disposal. A payment on account of the tax due on the gain must be made within the same time frame. This is the best estimate at that time of the capital gains tax that will be payable.

Connected persons

Transactions between connected persons are deemed to be made at market value. An individual is connected with:

- their spouse or civil partner;
- their siblings;
- their ancestors and lineal descendants;
- relatives of their spouse or civil partner and spouses or civil partners of those relatives.

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This rule means that where an asset is given to a connected person (other than a spouse or civil partner to whom the no gain/no loss rules apply), the gain is computed by reference to the market value at the date of disposal. This may trigger a capital gains tax charge on the transferor who will not have received any consideration for the disposal of the asset from which they pay the tax.

Care should therefore be taken when giving assets to children and grandchildren to ensure that funds are available to pay any resulting capital gains tax bill.

The market value is also used in place of the actual disposal proceeds where the transaction is not at arms' length.

Business Asset Disposal Relief

Business Asset Disposal Relief (formerly known as Entrepreneur's Relief) reduces the capital gains tax payable on the disposal of qualifying assets to 10%, subject to availability of sufficient of the individual's lifetime limit. The lifetime limit is currently £1 million.

The relief applies on the disposal of assets comprised in a disposal of all or part of your business, the disposal of assets used your business or partnership which were disposed of within three years of the date on which the business ceased or on the disposal of shares in your personal company. The relief is contingent on the associated qualifying conditions having been met for the two-year period prior to disposal.

It is necessary to plan ahead to ensure that the disposal will qualify for Business Asset Disposal Relief. You will need to allow sufficient time for the qualifying conditions to be met for the requisite two-year period.

Business asset rollover relief

Business asset rollover relief may be available where you sell some business assets and use the proceeds to buy new business assets. The availability of the relief means that any capital gains on the disposal will not be chargeable immediately – instead it is 'rolled over' reducing the base cost of the new asset by the amount of the gain.

The new asset must be purchased in the period running from one year before to three years after the disposal of the old asset.

Plan ahead

It is necessary to undertake any capital gains tax planning before you dispose of the asset – it cannot be done retrospectively.

We can help

Please call us on **01753 888 211** or email **info@nhllp.com** we can help you plan ahead to minimise the capital gains tax payable on the sale of chargeable assets.