

A YEAR OF TWO HALVES

As the tax year 2010/11 works its way to a close there is left hanging in the air the question of how we deal with the mid-term change in capital gains tax rates. For this year in particular, trying to cope with the changing face of capital gains tax is, er....trying!

What on earth do you do about offsetting capital losses made at different points in the year?

How do you decide how much can be taxed at 18% rather than 28%?

It might be best to explain with an example:-

George has a tax consultancy business and in 2010/11, due to the proliferation of Finance Acts, business is great and he makes a profit of £55,000. However last year was a tough year and he has a trading loss carried forward of £15,000 leaving him with a net taxable profit of £40,000.

In his spare time he also does a bit of dabbling in shares and this year he has sold most of his portfolio with mixed results:-

On 2 May he made a gain of £10,000

On 6 June he made a loss of £10,000

On 8 July he made a further loss of £15,000

On 24 September he made a gain of £45,000

His net gains for the year are therefore £30,000 – but what CGT does he pay?

The new rules state that losses can be used in the most beneficial way, as can the annual exemption. It does not matter whether the losses were incurred before or after 22 June. The amount charged at 18% from 23 June onwards is the amount equal to the unused part of the basic rate band. This is the net income after allowing deductions including losses and the personal allowance.

For George this is:

Income	55,000
Less losses b/fwd	<u>(15,000)</u>
	40,000
Less personal allowance	<u>(6,475)</u>
	<u>33,525</u>

Unused part of basic rate band - 37,400 – 33,525 = 3,875

So his CGT computation would look like this:-

	18%	28%
Pre – 22 June gains (taxed at 18%)	10,000	
Post - 22 June gains	45,000	
Less losses (pre and post - 22 June)	<u>(25,000)</u>	
	20,000	
Less annual exemption	<u>(10,100)</u>	
	9,900	
Less taxed at 18% (unused BR)	<u>3,875</u>	
Taxed at 28%		<u>6,025</u>
	<u>13,875</u>	<u>6,025</u> (Total gains 19,900)

All of George's losses and his personal allowance are best set against the tax on which he will have the highest rate ie the post - 22 June gains. He could use the unused part of his basic rate band against any gains of the year but it is beneficial only in relation to post - 22 June gains.

Total CGT payable is therefore £4,184.50 (an effective overall rate of 21%) despite the fact that most of his gains were made after 22 June.

Is that all perfectly clear?

Just because tax doesn't have to be taxing doesn't mean it's not!

David Young, is Tax Consultant at BKL Tax and member of UK200Group Tax Panel
david.young@bkltax.co.uk 020 8922 9104

Page 3 - Q&A's this month from Tax Panel member Chris Hobbs

Page 4 - Tax Panel members and their specialisms

Members of our Tax Panel each month look at issues they have come across and share these with members and readers of UK200Group's *Talking Tax*.

This month's Q & As are supplied by Chris Hobbs of Crowther Beard LLP, 01905 454854, cjh@crowtherbeard.com

Q A number of clients have a great amount of money "locked" in their companies', i.e. in the share value. What ways are there of releasing these funds?

A Normal considerations are payment of bonuses, with an IT and NIC cost, or dividends, with an IT cost. Even if dividends can be paid because there are sufficient reserves, the tax cost may be high in drawing the funds as this puts the recipient into the 40% or 50% tax bracket. In most cases the cost of a bonus is even higher.

There are basically 3 alternatives:

1. Reduce share capital.
2. Company purchase of own shares.
3. Wind the company up and distribute shareholders funds.

The first of these is possible only if the Companies Act conditions can be satisfied. If all the "hoops" can be jumped through the funds will be a capital receipt and liable to CGT at a maximum of 28%.

If 1 is not possible 2 and 3 give the same tax result, i.e. funds liable to CGT rather than IT. 2 works best if there is more than one shareholder, with one (or more) wishing to continue and one (or more) ceasing. 3 caters for the cessation of the business. Both have provisions but they are not onerous and the results can be spectacular.

An example of 2 would be two shareholders who each have shares in a trading company valued at £500,000. One shareholder wants to realise the value but neither has funds to buy the other out, however the company does. The company agrees to purchase the shares and the CGT on this disposal is (after Entrepreneurs Relief) circa £50,000. A £500,000 "special" dividend might cost as much as £180,500 in IT.

An example of 3 is a trading company ceasing to trade and distributing its £500,000 reserves to shareholder(s). Again the CGT is likely to be circa £50,000, as opposed to £180,500 on a pre-cessation dividend. The company can be formally liquidated voluntarily or, in a number of cases, by an informal winding up, using HMRC ESC C16 to achieve the tax position.

Q A lot has been said recently about getting extra tax relief on expenditure classed as Research & Development (R&D). What is this all about?

A The first misconception to overcome is that R&D is only something carried out by high-tech companies. Many companies have activities that can be classed as R&D by HMRC.

Qualifying expenditure attracts tax relief at 175% or 130%, depending on whether the company is small or large under the Companies Act. Loss making companies can surrender R&D losses to get a repayment of the PAYE or NIC paid.

UK200Group Tax Panel members are renowned for their depth of knowledge and can advise on all areas of taxation with special expertise and experience of multinationals, UK companies, privately-owned organisations, sole traders, family businesses, trusts, partnerships and private individuals. Straight forward general enquiries will be dealt with quickly and free of charge. More complex specific client enquiries may require a fee charge which will be discussed and agreed by both parties prior to any work being undertaken. Tax enquiries can be posted to www.uk200group.co.uk members' home page under Specialist Panels, Tax Panel Newsgroup. The Centre is alerted to all enquiries posted on the UK200Group web site.

- | | | | |
|--|--------------------------------|--|--------------------------|
| 1 Capital Gains Tax | 2 Sales & Acquisitions | 3 Employee Share Incentives | 4 Inheritance Tax |
| 5 International Tax | 6 Offshore Tax Planning | 7 Partnership Tax Planning | 8 PAYE and NI |
| 9 Stamp Duty Land Tax | 10 Tax Investigations | 11 Taxation of Owner Managed Businesses | 12 Trusts |
| 13 UK Taxation of Foreign Expatriates | | 14 VAT | |

Alastair Byrne JWPCreers York, 01904 624155 ajb@jwpcreers.co.uk www.jwpcreers.co.uk	1, 2, 11	Alan Boby Ellacotts LLP Banbury, 01295 250401 aboby@ellacotts.co.uk www.ellacotts.co.uk	1, 2, 3, 4, 8, 11, 12	Mhairi Charlton Anderson Barrowcliff LLP Middlesbrough, 01642 660 300 mhairi@anderson-barrowcliff.co.uk www.anderson-barrowcliff.co.uk	2, 3, 8, 10, 11
Martin Culshaw Hillier Hopkins LLP Watford, 01923 232938 martin.culshaw@hhllp.co.uk www.hillierhopkins.co.uk	2	Stephen Deutsch BKL Tax, London N3, 020 8922 9119 Stephen.deutsch@bkltax.co.uk www.bkltax.co.uk	1, 2, 3, 7, 8, 9, 11	John Dormer Wright Hassall LLP Leamington Spa, 01926 886688 john.dormer@wrightassall.co.uk www.wrightassall.co.uk	3, 8
Debra Dougal - Chairman Haslers Loughton, London NE, 020 8418 3426 Debra.dougal@haslers.com www.haslers.com	14	Chris Hobbs Crowther Beard LLP Tewkesbury, Gloucestershire, 01684 290123 cjh@crowtherbeard.com www.crowtherbeard.com	1, 2, 4, 7, 8, 10, 11, 12	Barry Jefferd George Hay Huntingdon, Cambridgeshire, 01480 426500 barry.jefferd@georgehay.co.uk www.georgehay.co.uk	1, 2, 3, 4, 7, 8, 10, 11, 12
Terry Jordan BKL Tax, London N3, 020 8922 9360 terry.jordan@bkltax.co.uk www.bkltax.co.uk	4, 12	Chris Mattos Randall & Payne LLP Stroud, 01453 763471 cjm@randall-payne.co.uk www.randall-payne.co.uk	1, 2, 3, 6, 7, 9, 10, 11, 12,	Jarlath McCloskey BKL Tax London N3, 020 8922 9386 jarlath.mccloskey@bkltax.co.uk www.bkltax.co.uk	1, 2, 3, 5, 6, 7, 8, 10, 11, 13
Duncan Montgomery Whittingham Riddell LLP Shrewsbury, 01743 273273 dmontgomery@whittinghamriddell.co.uk www.whittinghamriddell.co.uk	1, 2, 4, 7, 9, 11, 12	Clare Munro Haslers Loughton, London NE, 0208 418 3333 clare.munro@haslers.com www.haslers.com	1, 2, 3, 5, 4, 10, 11, 12	Robert Postlethwaite Postlethwaite & Co Solicitors London WC2, 020 7470 8805 rmp@postlethwaiteco.com www.postlethwaiteco.com	3
Graham Purvis Robson Laidler LLP, Newcastle upon Tyne, 0191 281 8191 gpurvis@robson-laidler.co.uk www.robson-laidler.co.uk	1, 3, 4, 7, 11, 12	Derek Rhodes Alex Picot Ltd (International Associate) St Helier, Jersey 01534 753753 derek.rhodes@alexpicot.com www.alexpicot.com	6, 12	Catherine Scott Baines Jewitt Stockton on Tees, 01642 632032 cs@bainesjewitt.co.uk www.bainesjewitt.co.uk	2, 10, 11
Anne Smith Watts Gregory LLP Cardiff, 029 2054 6600 a.smith@watts-gregory.co.uk www.watts-gregory.co.uk	1, 2, 3, 4, 5, 8, 9, 11, 12, 13,	Marcus Ward Price Bailey LLP Cambridge, 01223 696114 marcus.ward@pricebailey.co.uk www.pricebailey.co.uk	14	David Whiscombe BKL Tax, London N3, 020 8922 9306 david.whiscombe@bkltax.co.uk www.bkltax.co.uk	1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 13
David Young BKL Tax, London N3, 020 8922 9104 david.young@bkltax.co.uk www.bkltax.co.uk	1, 2, 3, 6, 7, 9, 10, 11, 12, 13				

UK200Group is an association of separate and independently owned and managed chartered accountancy firms and lawyer firms. UK200Group does not provide client services and it does not accept responsibility or liability for the acts or omissions of its members. Likewise, the members of UK200Group are separate and independent legal entities, and as such each has no responsibility or liability for the acts or omissions of other members.