

HOW NEW CAPITAL GAINS TAX CHANGES COULD AFFECT YOU

With the Chancellor proposing to change the rules relating to capital gains tax on the sale of business properties, accountant Ian Tongue answers a GP's queries

Q I am a GP and wonder how the capital gains tax changes might affect me.

A In his pre-Budget speech in October last year Chancellor Alistair Darling announced he intended to overhaul the method of calculating capital gains tax (CGT) on the disposal of certain assets.

These included business properties such as GP surgeries. The aim behind the changes was, first, to simplify the tax as it had become extremely complicated and, second, to satisfy the public pressure to ensure private equity investors paid an increased amount of tax.

Q That sounds sensible – why should there be such a controversy about the changes?

A Most would agree that simplification was needed. What they disagreed with was that by targeting the private equity investors the Chancellor also increased the anticipated tax liability of many small businesses and employees in share schemes.

This went against his predecessor's stated aim in the previous 10 years – to promote entrepreneurs, small businesses and employee-shared ownership.

Q So that explains why trade unions, small businesses and the BMA have been lobbying the Chancellor. Has he taken any notice?

A Yes he has, and he recently announced measures to supplement his initial proposals aimed at reducing the impact on smaller businesses and other groups.

Q What will these new measures be known as?

A Mr Darling introduced what he called a new capital gains 'entrepreneurs' relief'.

Q That doesn't sound as if it relates to me. Will GPs benefit from these revised proposals?

A The individuals most affected by the proposals were the small business owners who have perhaps developed successful businesses over many years and therefore the relief was 'branded' with them in mind. However, the relief is available in respect of all or part of a business along with other situations and therefore a GP selling their share of a surgery should be entitled to the relief.

Q How does the new capital gains 'entrepreneurs' relief' work?

A The first £1m of gains that qualify for the relief will be taxed at an effective rate of 10%. This is a lifetime allowance and should be considered in the context of all qualifying disposals that you may have.

This is an improvement on the initial proposals and, for assets acquired after April 1998, will result in a similar amount of CGT being paid as under the old regime. However, the relief known as indexation will still be lost. Therefore, depending on the ownership length of the qualifying asset, you may still be worse off compared with the old CGT regime. Your accountant can advise on your specific circumstances.

Q What are the criteria to qualify for the relief?

A Your accountant will be able to discuss the qualifying criteria in detail. It is broadly in line with an older and now defunct form of CGT relief known as 'retirement relief'. The draft legislation has not been published yet, but it is thought that you will not have to be in the process of retiring from the business. And the period of time required to qualify for the relief will be short – for example, one year.

Q I own a couple of properties. Will these be covered?

A This depends on the type of properties. Furnished holiday letting properties already experience a favourable tax position as they are regarded as a business. It is expected that the sale of a furnished holiday letting property will satisfy the criteria. Any qualifying disposals of this nature will count towards your £1m lifetime allowance.

Buy to let properties will not benefit from 'entrepreneurs' relief' but many individuals will benefit from the CGT simplification measures. This is as a result of a new rate of 18% being charged on the gain, which in many cases is a lower rate than under the old regime.

Q Is it worth using my spouse to transfer some or my entire share of the surgery?

A Probably not, but this should be discussed with your accountant. For starters, you will require your other partners' approval, and generally this will not be forthcoming. This is because there is always the risk of some matrimonial dispute arising that would affect future ownership.

Q So what would you advise me or other GPs in my position to do?

A Even if I knew all the finer points of your affairs I would strongly advise you discuss them with your accountant. The new 'entrepreneurs' relief' is certainly welcome for GPs and should ensure they are not significantly disadvantaged by the simplified regime.

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