



Private Client Law Bulletin

Budget 22 June 2010 - Part 2: Entrepreneurs' Relief

Entrepreneurs' Relief was introduced in 2008 to reduce the amount of Capital Gains Tax ("CGT") payable on gains made on the disposal of business assets. The Government's June 2010 Budget raised the lifetime limit of gains upon which Entrepreneurs' Relief may be claimed to £5million.

Conditions for the relief

Who: Entrepreneurs' Relief is available to individuals and certain trustees. Spouses and civil partners are separate individuals and may each claim. Personal representatives cannot claim this relief.

Assets: The relief is available only on the disposal of:

- All or part of a business
- The assets of a business after the business has ceased
- Shares in a 'personal company' that is, a trading company in which the person claiming the relief holds at least 5% of the ordinary share capital and that holding gives the individual at least 5% of the voting rights in the company. The individual must also be either an officer or employee of the company.

'Business' includes any trade or profession but does not include the letting of property unless it is a furnished holiday letting (see our future bulletin).

The business must be owned directly by the individual or beneficiary under the Trust or it must have been owned by a partnership of which the individual or beneficiary is a member to qualify.

The type of disposal being made will determine the specific qualifying conditions which must be met.

Qualifying Period: The qualifying conditions must be met for a period of 1 year preceding the disposal or on the date the business ceased.

Rate: The first £5million of qualifying gains made will be taxed at a flat rate of 10%. Gains breaching this limit will be charged at 18% or 28% depending upon whether the individual is income taxed at the basic or higher rate (see Bulletin 36).

When to claim: Claims must be made by 31 January one year and 10 months from the end of the tax year in which the disposal is made.

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Common pit-falls:

- Entrepreneurs' Relief is not available on the disposal of assets of a continuing business unless the assets are comprised in a disposal of a distinct part of the business
- The amount of gain eligible for Entrepreneurs' Relief on a disposal could be restricted if the asset was only used for part of the time the individual owned it, or only part of the asset was used in the business, or the individual was only involved in the business for part of the period during which the asset was used by the business or where the individual received any form of rent from the business for using it.

If you have any queries about how the changes affect you or your clients, please do not hesitate to contact us.

If you require any specific advice in connection with the material contained in this bulletin, or on any other Private Client issues, please contact: Duncan Bailey in Liverpool on 0151 600 3451, Richard Bate in Manchester on 0161 836 8840 or Stephen Marriott in Preston on 01772 229 816.

If you no longer wish to receive the bulletin please let us know by return e-mail to helen.calvert@brabnerscs.com

This bulletin is for general guidance purposes only and should not be used for any other purpose.

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