



Clauses 7-12

Capital Gains Tax rates and reliefs

Executive Summary

- **Clauses 7-12 amend various rates of capital gains tax (CGT), equalising the main rates with those for residential property.**
- **While CIOT does not take a view on the rates at which CGT should be charged we observe that changing CGT rates mid-way through a tax year is likely to cause some confusion with respect to compliance matters. It would be helpful for HMRC to issue guidance accordingly.**
- **With Business Asset Disposal Relief (BADR) being made – in due course – less generous the government might explore ways in which more help could be provided to new entrepreneurs.**
- **The reduction in the annual exempt amount over the last two years increases significantly the number of people within scope for CGT, with implications for taxpayers and HMRC.**

Overview and background

- 1.1. Capital gains tax (CGT) is a tax on the 'disposal of a chargeable asset'. While disposal usually means selling something it can also include giving it away or swapping it. Other situations that count as a disposal include an asset being lost, stolen, damaged or destroyed or receiving capital sums in respect of an asset. Most things are chargeable (that is, within the scope of the tax), but notably CGT is not payable on gains from: your main/only private residence, sterling cash, cars suitable for private use, plant and machinery owned for private purposes and shares held within ISAs. Certain disposals (for instance to your spouse or to charity) are exempt from CGT.
- 1.2. CGT is calculated by deducting the purchase price (plus improvement and other incidental costs) from the actual disposal proceeds (or the market value in the case of gifts or where an asset is sold deliberately undervalued) and then applying the appropriate rate of CGT.
- 1.3. BADR (known as Entrepreneurs' Relief prior to 2020) allows someone selling a business to pay CGT at a lower rate on qualifying gains within a £1 million lifetime limit. Investors' Relief provides a similarly low rate for passive investors (with a much higher limit of £10 million).
- 1.4. Private equity fund managers, operating in partnership with investors, buy investments – usually shares in private companies. 'Carried interest' is the name given to a manager's partnership profit share, usually on excess returns above the expected ("hurdle") return. Any separate fixed management fees received will be taxed as income, but the super-performance/profit-related 'rewards' in the form of partnership shares are only subject to CGT.
- 1.5. Since April 2024, the rates of CGT have been as follows:

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- 10% for gains (other than for residential property and carried interest) that qualify for Business Asset Disposal Relief (BADR) (with a lifetime limit of £1 million) or Investors' Relief (with a lifetime limit of £10 million); also for other gains that fall within one's unused income tax basic rate band
 - 18% for the disposal of residential property, to the extent that the gain is within one's unused basic rate band
 - 20% for a higher-rate taxpayer's gains and those which exceeds one's basic rate band. This rate also applies to trustees and personal representatives for assets other than residential properties. For the disposal of residential properties these same taxpayers pay 24% (prior to the March 2024 Budget this rate was 28%).
 - For carried interest: 18% for gains within one's unused basic rate band, and 28% thereafter; the rate of 28% also applies to trustees and personal representatives
- 1.6. Clause 7 of the Bill increases the main rates of CGT from 10% and 20% to 18% and 24% respectively for disposals made on or after 30 October 2024 (equalising them with rates for residential property which are unchanged).
- 1.7. Schedule 1 makes consequential changes to clause 7, in particular removing references to separate rates for residential property gains and provisions for determining what is taxed at residential property rates, reflecting that rates for residential property gains and most other gains are now being equalised.
- 1.8. Clauses 8 and 9 increase the rates for gains which qualify for BADR and Investors' Relief respectively. From 6 April 2025 the 10% rate will increase to 14%; from 6 April 2026 the rate will increase to 18%.
- 1.9. Clause 10 reduces the lifetime limit for Investors' Relief from £10 million to £1 million, from 30 October 2024.
- 1.10. Clause 11, and schedule 2 which it introduces, bring in transitional rules for the changes made in clauses 7-10. Part 2 of the schedule puts in place an anti-forestalling provision which provides that where an unconditional contract is made before 30 October 2024, but the asset is transferred after that date, it is that latter date of transfer which counts as the disposal date for tax purposes as the default. This overrides the usual position whereby the earlier date of the contract would be the date of disposal for tax.
- 1.11. Clause 12 increases the CGT rate for carried interest arising on or after 6 April 2025, from rates of 18-28% to a single rate of 32%.

CIOT comments

- 1.12. CIOT does not take a view on what specific rates CGT should be set at. We recognise that, to a greater degree than most taxes, CGT rates can have a major behavioural effect with people sometimes deciding not to transact if the post-tax return is too low. That is one of the reasons why governments have generally kept CGT rates below those for income tax. (Others include the fact that CGT ignores the impact of inflation and that a lower rate partly compensates for gains typically all arising in one year, so potentially pushing a basic rate taxpayer into paying at a higher rate.) We note that, back in 2010, Treasury analysis suggested the optimum level of CGT for revenue-raising purposes was around 28 per cent. Short-term behavioural effects make it hard to judge the impact of CGT changes until some years afterwards.

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- 1.13. Changing CGT rates mid-way through a tax year is not ideal and likely to cause some confusion with respect to compliance matters – for instance the offsetting of losses. Usually when completing the relevant pages of a tax return, the gain/loss being recorded relates to the whole tax year and there is only a single relevant rate/set of rates. In 2024-25 however, we have two sets of rates in the one year and potentially different transactions in the same year being subject to different rates. HMRC have already informed us that it is too late to change the format of the relevant 2024/25 tax return pages to accommodate this change, so a (potentially complex) manual adjustment must be made by the taxpayer. We understand that HMRC are working on some form of calculator to assist but guidance will need to be really clear to avoid confusion, and a sensible approach taken for example in considering any penalties for accidental errors following compliance activity.
- 1.14. With respect to the anti-avoidance provisions, we note that this is semi-retrospective, given that it applies to contracts entered into before Budget Day. However, we think that such retrospection is broadly acceptable in situations where such contracts were wholly artificial – for instance selling to a connected relative or perhaps to a special-purpose company – with an expectation that the contract might be cancelled if it proved unnecessary. However, the anti-avoidance measure does go further than this and requires the taxpayer to certify that “no purpose” of the transaction was to avoid tax and that the transaction was “wholly commercial”. More usual drafting here would be that avoiding tax was not “one of the main purposes” of the transaction. This would prevent people being caught where the contract was entirely commercial (and will genuinely complete in the future) but perhaps tax planning may have played some part in the timing of the contract. It seems to us unfairly retrospective that those who entered into fully commercial contracts before the Budget should be caught in this way.
- 1.15. In any event given the significance of having a mid-year rate change and a number of transactions which may straddle 30 October 2024, it would be advisable for HMRC to issue guidance highlighting the unusual precedence of contractual completion and that, in this instance, beneficial ownership is transferred at that later completion date.
- 1.16. The change to BADR will eventually reduce the value of this relief which has been much reduced already since it was cut to £1 million from £10 million in 2020. But, since the BADR rate remains at 10% until April 2025, while the main rate of CGT increases immediately to 24% for higher rate taxpayers, there is a window where people selling their business can save up to 14% CGT (£140,000 per person) until April 2025. The saving then falls to its pre-Budget level of 10% (£100,000) until April 2026, before falling again to just 6% (£60,000).
- 1.17. One criticism of BADR has been that it is a relief that benefits entrepreneurs when they sell up rather than encouraging and supporting them at the start. Whilst this does afford some incentive of a tax-efficient exit for would-be investors, going forward we would like to see the government look at how more help can be provided to help new entrepreneurs, perhaps through consideration of additional upfront reliefs and incentives – e.g. through the extension of the EIS and Seed EIS schemes - for the early years of a business.
- 1.18. While the reduction in the lifetime limit for Investors’ Relief is a significant change, our experience has been that Investors’ Relief has not been much used – and we can see some sense in aligning the limit with that for BADR; they are similar reliefs, albeit targeted at passive rather than active shareholders, so the logic for having hugely different limits has been unclear.

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- 1.19. One further point worth noting in relating to CGT is the significant reduction in the ‘annual exempt amount’ (AEA) – the amount under which total annual gains attract no tax and usually require no reporting. This has been cut from £12,300 in 2022-23 to £6,000 in 2023-24 and to £3,000 in 2024-25. As a consequence, many more people are being brought into the scope of CGT, possibly without realising it and not knowing how to report their gains and pay the tax. Data has not yet been published on the numbers of CGT payers for the years in question, but a November 2020 report from the Office of Tax Simplification (OTS) cited HMRC estimates as indicating that a reduction in the AEA to £6,000 in the following year would result in 235,000 more individuals needing to report a capital gain and a reduction to £2,500 would result in 360,000 more individuals having a requirement to report a capital gain.
- 1.20. While this may (as the OTS noted) be something of an overestimate due to behavioural effects, it nevertheless adds further to the administrative burden on HMRC as well as that on taxpayers, coming on top of big increases in the number of payers of income tax and some other taxes. As HMRC’s chief executive, Sir Jim Harra, noted to the Public Accounts Committee in December 2023, “the key pressure on HMRC is that more taxpayers, and more taxpayers engaging in the part of the tax system where they have to actively engage with it, means more contact with the tax system and therefore more contact with HMRC”. Sir Jim made similar comments at the PAC’s 28 November 2024 hearing ([Q14](#)).

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- 1.23. The CIOT’s 20,000 members have the practising title of ‘Chartered Tax Adviser’ and the designatory letters ‘CTA’ and ‘CTA(Fellow)’, to represent the leading tax qualification.

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