

Blake Laphorn Tarlo Lyons' nursery and childcare news

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increase of tax on company sales

The Chancellor's Pre-Budget report included a surprise proposal to introduce a new single capital gains tax (CGT) rate of 18% and also abolish CGT taper relief (including business asset taper relief). These changes will apply to sales made on or after 6 April 2008, so if you are considering a sale you may be able to make significant savings by completing it before this date.

current tax position on sale

Under the current tax rules, individuals are liable to CGT on gains made on sales of capital assets, particularly property and shares. The standard rate of CGT is 40% (for higher rate tax payers), however certain reliefs and exemptions may apply to reduce the CGT charge.

One of the key reliefs available to individuals is taper relief. The amount of taper relief that may be claimed depends on how long the asset has been owned prior to sale and whether the asset is a 'business' or 'non-business' asset. The maximum relief, if it is a business asset, can reduce the effective rate of CGT to 10% where the asset has been owned for at least two years. For non-business assets, taper relief is not available at all unless the asset has been held for at least three years. The amount of effective tax reduces incrementally thereafter until the asset has been owned for ten years when the effective rate of CGT is 24%.

Owners of nurseries may benefit from business asset taper relief if they are individuals selling assets used in the running of the nursery or selling shares in a trading company that operates the nursery. Generally, shares qualify if they are in an 'unlisted' company (which for these purposes include those on AIM) or in a subsidiary of an unlisted company.

the new regime

Under the new proposals, taper relief will not be available and capital gains on disposals made on or after 6 April 2008 will be liable to CGT at a new flat rate of 18% (regardless of whether they are sales of business assets or for how long they have been owned). The annual exempt amount, currently £9,200

for individuals, will remain in place as will certain other reliefs. However, for individuals disposing of business assets, these reforms could significantly increase CGT costs to almost double in some cases.

These changes do not affect the tax treatment of gains realised by companies, which will continue to be subject to corporation tax in the usual way.

timing

If a sale is to fall within the existing regime, it must be completed or made unconditional on or before 5 April 2008. If there are conditions, such as receipt of regulatory consents, to the contract which are fulfilled in the new tax year, the disposal will be taxed under the new regime.

The new proposals have received extensive criticism and there is some expectation that the Government will, at least in part, retrench its position. However, if you are thinking about selling your business or company, take steps to prepare your business for sale.

action:

- as the new regime approaches, the additional tax charge could be exploited as a negotiating tactic by buyers
- for holders of non-business assets, it may be worth considering delaying any potential sale in order to benefit from the new 18% rate
- holders of shares in property investment companies should seek specific advice



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