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**Capital Gains Tax – Rates and Entrepreneurs’ Relief**

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Questions and Answers  
22 June 2010

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## Introduction

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From 23 June 2010 there will be two main rates of CGT, 18% and 28%, in place of the single rate of 18% for all gains. The rate paid by individuals will depend upon the amount of their total taxable income. Gains qualifying for entrepreneurs' relief will be taxed at a rate of 10%, and the lifetime limit of gains qualifying for entrepreneurs' relief will be raised to £5 million (from the previous figure of £2 million). Gains of trustees or personal representatives of deceased persons will be charged at 28%.

## Chapter 1 : Questions and Answers

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**Q1 Why is the change effective from 23 June 2010 and not from April 2011?**

**A1** Ministers decided to bring in changes immediately so as to provide certainty to investors.

**Q2 What support does this measure give entrepreneurs?**

**A2** The Government continues to support entrepreneurs by increasing the lifetime limit for entrepreneurs' relief to £5 million.

**Q3 As an entrepreneur what rate will I pay before and on/after 23 June 2010 when disposing of qualifying assets?**

**A3** You will effectively pay 10% on disposal of any qualifying assets throughout the tax year 2010/11, although the method by which this is achieved is different for gains arising before 23 June 2010 and those arising on or after that date.

**Q4 Why don't you just charge a flat rate depending on whether you are a lower rate or higher rate taxpayer rather than use different rates?**

**A4** The Government have decided to introduce two CGT rates to promote fairness in the tax system.

**Q5 How can I find out if I am a basic rate or higher rate taxpayer?**

**A5** If you are an employee the P60 form you receive from your employer at the end of every year should tell you the total amount of income you have received from your employment. You will have to add to this any other income, such as interest from banks and building societies. For those who must complete a self assessment return the notes to the return will explain how to determine their taxable income and rates of income tax for their return. For full details of current tax rates and limits go to our website on <http://www.hmrc.gov.uk/rates/it.htm>.

**Q6 How can I work out if I have any of my basic rate band left when calculating my CG liability?**

**A6** You can work out if you have any available lower band rate left by checking the rates of tax at <http://www.hmrc.gov.uk/rates/it.htm>. For the tax year 2010/11 most people will start paying higher rate income tax only on income over £43,875 although this will depend on whether you have any other allowances. If your income is below that amount, gains up to the unused amount of the band are chargeable at 18%. Any amounts that exceed any unused amount of the basic rate band are chargeable at 28%. If your income uses up the whole of your basic rate band all your gains are charged at 28%.

**Q7 Do I still offset my losses against my gains in the way I used to do?**

**A7** You can set off losses, and the annual exempt amount, in the way which is most beneficial for you unless a specific rule limits the way you can set off the loss in question. (An example is a “clogged” loss on an asset you dispose of to a relative or other “connected person” that can be deducted only from certain types of gain.)

**Q8 I’m a pensioner selling my home to pay for my care home fees. Will I have to pay CGT?**

**A8** In the great majority of cases CGT private residence relief means there will be no CGT to pay when you sell your home. But it will depend on your circumstances. You can get guidance on private residence relief on our website. Or ask your agent for advice.

**Q9 How do I decide whether a gain is chargeable at 18% or 28%?**

**A9** Gains on disposals made before 23 June 2010 are chargeable at 18%. Where gains qualify for entrepreneurs’ relief the amount of the gain is reduced by 4/9 and then the net gain is taxed at 18%. This produces an effective tax rate of 10%.

Gains on disposals made on or after 23 June 2010 are chargeable at 18%, if they fall within your basic rate band, or 28% for gains above that level, unless they qualify for entrepreneurs’ relief in which case they are chargeable at 10%.

**Q 10 I am likely to have a mix of pre and post 23 June 2010 disposals with CGT gains. Do the pre 23 June 2010 gains count as using up my available basic rate band?**

**A10** No.

**Q11 In 2009 I deferred a gain by investing in enterprise investment scheme (EIS) shares. The gain would have been chargeable at 18%. If the gain comes back into charge after 22 June 2010, at what rate will it be taxable?**

**A11** A deferred gain that comes back into charge on or after 23 June 2010 will be chargeable at 18% or 28% depending upon your income tax liability.

**Q12 I am not domiciled in the UK and currently elect to pay my tax on the remittance basis. What rate will I pay on any Capital Gains disposals in 2010/11?**

**A12** Gains arising (or treated as arising) before 23 June 2010 are chargeable at 18%. For gains arising on or after 23 June 2010, the rate will depend upon whether your income exceeds the amount of your basic rate band. If any basic rate band is not used, gains up to the unused amount are chargeable at 18%, and all other gains are chargeable at 28%. If you pay the £30,000 “remittance basis charge”, you are deemed to have used up your full lower rate allowance and any gains will be taxed at 28%.

**Q13** The coalition agreement talked about CGT rates becoming more closely aligned with income tax rates. Does this mean that the 28 % rate will go up to 40 or 50% next year?

**A13** The Chancellor will decide the rates of CGT for 2011-12 in the Budget in 2011.

**Q14** Is there any change to the annual exempt amount (AEA) of £10,100 for 2010/11

**A14** There is no change to the AEA for 2010/11.

**A15** How will HMRC help me calculate my CGT liability for 2010/11?

**A15** We will provide guidance in time for people to complete their returns for 2010-11 and we are looking at how we can automate the process as much as possible.