

Business asset roll-over relief

This Help Sheet gives you information to help you claim business asset roll-over relief. But it is only an introduction. If you are in any doubt about your circumstances you should ask your tax adviser. We will also be pleased to help. You can also consult our Capital Gains Manual, which explains the rules in more detail, at www.hmrc.gov.uk

What is business asset roll-over relief?

Business asset roll-over relief lets you defer any Capital Gains Tax due when you dispose of certain assets (called 'old assets').

If you acquire other assets (called 'new assets') costing the same as, or more than, the amount you got when you disposed of the old assets, the relief allows you to postpone paying tax until you dispose of those new assets.

Example 1

You sell your shop for £75,000 and buy a new shop costing £90,000. If you claim relief you will not pay tax on the gains made on the sale of the old shop until you sell the new one.

If you acquire new assets for less than the amount you got on the disposal of the old assets, you may get partial relief.

Example 2

You sell your shop for £100,000 and buy a new shop for £90,000. If you have made a gain, you may still have some tax to pay but you may get some relief.

You may get a similar relief if you have land which is compulsorily purchased and you buy new land. You will not pay tax until you dispose of the new land.

There is a system of provisional relief. This system allows you to obtain provisional relief on any gains you make on the disposal of an old asset if you declare an intention to acquire a new asset and claim relief. Further details are in the section headed 'Provisional relief' on page 6.

Getting relief

You can claim relief if:

- you are trading
- you are carrying on a business of furnished holiday lettings
- you are occupying commercial woodlands and managing them commercially to make a profit
- you are carrying on a profession, vocation, office or employment
- you are providing an asset to your personal company, or
- you have disposed of land by a compulsory purchase.



Contacts

Please phone:

- the number printed on page TR 1 of your Return
 - the Helpline on **0845 9000 444**
 - the Orderline on **0845 9000 404** for Help Sheets
- or go to www.hmrc.gov.uk

Traders

If you are a trader you can claim relief if you use the old and new assets in:

- the same trade, or
- another trade that you carry on at the same time or shortly after you have ceased the first trade.

We will accept claims to relief where there is a gap of three years or less between one trade ending and another beginning.

Example 3

You cease trading as a newsagent and sell your shop. Later you buy a grocer's shop and start trading again. If your grocery trade began within three years of the end of your previous trade, you can defer the gain on the sale of your shop.

We will treat the other activities listed above and on page 1 as if they were trades **except for when you provide an asset to your personal company** (see below). So, for example, you can claim relief when you sell an asset you have used in a trade and buy a new asset that you will use in an employment.

If you are not resident in the UK but are carrying on a trade here through a permanent establishment, you can only claim relief when you acquire new assets for that permanent establishment.

Furnished holiday lettings

If you let accommodation, you can treat it as a business of furnished holiday lettings if it meets the conditions set out on page UKPN 2 of the *UK property notes*. If you do not have a copy of the *UK property notes*, ask the Orderline for them or view them online on our website.

Your personal company

Your personal company is any company in which you can exercise 5% or more of the voting rights.

You can claim relief if you dispose of assets that you have provided for your personal company and that have been used in its trade. The new assets you acquire must also be provided to be used in the trade of that personal company.

Getting relief for the assets you have disposed of

Both the old assets you have disposed of and the new ones you have acquired must be:

- interests in buildings or parts of buildings, or
- interests in land, or
- fixed plant or machinery, or
- ships, aircraft, hovercraft, satellites, space stations and spacecraft, or
- goodwill, or
- milk, potato or ewe and suckler cow premium quotas, or
- fish quota, or
- payment entitlements under the single payment scheme, or
- Lloyd's syndicate capacity.

Occupation of land and buildings

You must occupy as well as use land and buildings only for your trade if you wish to claim relief.

If the land or buildings have been provided by you for use by your personal company, it is that company which must occupy and use them.

Fixed plant and machinery

This means plant and machinery which is fixed in a particular location. For example, you can get relief when you dispose of a printing press but not when you dispose of a lorry.

Improvements

You can treat any money you spend on improving assets which you already own as if it were spent on acquiring new assets (except in certain cases where land is compulsorily purchased).

Buying to make a gain

If you have acquired the new assets in order to make a profit by selling them, you will not be allowed relief.

Partial relief

If:

- the old assets have only been used in your trade for part of the time you have owned them, or
- part only of a building or structure comprising either the old or the new assets has been used or will be used in your trade

you can only claim partial relief. Examples 4 and 5 below illustrate the amount of relief you will get.

Example 4

You sell a shop for £100,000 and make a gain of £20,000. You owned the shop for 10 years and traded from it for five years. It was let for the other five years. Only $\frac{5}{10}$ (five years of trade/ten years of ownership) of the gain can be deferred and to claim that deferral you must acquire new assets costing £50,000 or more.

Example 5

You sell a building for £160,000 consisting of a shop together with a flat above and make a gain of £80,000. You have always traded from the shop, which is worth £120,000. You let the flat, which was worth £40,000. Only $\frac{12}{16}$ (that is $\frac{3}{4}$) of the gain can be deferred. You can defer £60,000 of the gain if you acquire new assets costing £120,000.

Depreciating assets

If the new assets are depreciating assets you will get relief by a different method. Instead of your tax being deferred until you dispose of the new assets, it will be deferred until the earliest of the following:

- when you dispose of the new assets, or
- when you cease to use the new assets in your trade, or
- 10 years from when you acquired the new assets.

A depreciating asset is any fixed plant or machinery or any asset which will have a life of 60 years or less from when you acquired it.

Example 6

You sell a shop and use the proceeds to buy fixed plant and machinery on 1 June 2008. You can claim to defer the gain on the shop until the earliest of:

- the date you sell the plant and machinery, or
- the date you stop using the plant and machinery in your trade, or
- 31 May 2018.

If you acquire a further asset which is not a depreciating asset during the period in which your tax is deferred, you can make a further claim to relief. You can defer your tax until the further asset is disposed of.

Example 7

You sell an asset in 2008 and make a gain. You buy a new depreciating asset in 2009 and use it in your trade. The gain you made in 2008 will be deferred until 2019 at the latest. If you buy a new non-depreciating asset in 2017, you can defer the 2008 gain until you dispose of that new non-depreciating asset.

Compulsorily purchased land

If you were the owner of land which was compulsorily purchased, you can defer your tax on that disposal by acquiring new land. There is no limitation on how the old or the new land are to be used except the new land must not contain a dwelling house:

- when you acquire it, or
- within six years after you acquire it

for which you would be entitled to private residence relief if you were to dispose of it.

You will not get relief if you have previously advertised your willingness to dispose of the land.

Example 8

Your local authority compulsorily purchases a house you own and have let. You receive compensation of £50,000. If you use the money to acquire a new house which will be let, you can defer the gain until you dispose of the new house.

Period for reinvestment

You must acquire the new assets or enter into an unconditional contract for the acquisition of the new assets in the period between:

- 12 months before, and
- 36 months after

the disposal of the old assets.

We will extend these time limits if you can demonstrate that you had a firm intention to acquire new assets:

- within the time limit, and
- you were prevented by some fact or circumstance beyond your control from meeting the time limit, and
- you acted as soon as you reasonably could after ceasing to be so prevented.

Example 9

You sell a shop in August 2008 and make a gain. To defer the gain you must acquire a new asset at some time between:

- August 2007, and
- August 2011

unless we let you have relief for a new asset acquired outside that period.

Relief available

If you use the whole amount you receive from the disposal of the old assets to acquire new assets, the whole of your gain will be deferred by deducting it from the cost of the new assets.

Example 10

You sell a shop for £50,000 and make a gain of £10,000. You buy a new shop for £75,000 and claim roll-over relief. The cost of your new shop will be reduced to £65,000 when you calculate the gain or loss you will make if you sell it.

If you use part of the amount you received for the disposal of the old assets and that part includes some of the gain you made, you will get relief for the part of the gain you have used. You deduct that part of the gain from the cost of the new assets.

Example 11

You sell a shop for £75,000 and make a gain of £15,000. You buy a new shop for £70,000 and claim roll-over relief. You have used £10,000 of the gain to buy the new shop. So the cost of the new shop is reduced by £10,000 to £60,000 and you may have to pay tax on the remaining gain of £5,000.

Sometimes:

- the actual disposal proceeds you received, or
- the actual cost of the asset you acquired

are replaced by the market value of the asset in order to calculate your chargeable gains.

For example, if you sell an asset to your brother, you ignore the price he actually pays and will be taxable as if you had received the full market value of the asset.

If you replace your actual cost or disposal proceeds in this way, then the amount you have to reinvest, or the amount you are treated as having reinvested, is the substitute figure.

Example 12

You sell a shop worth £80,000 to your son for £10,000. You make a gain of £30,000 (based on the market value of the shop) and wish to claim roll-over relief. To get any relief you must acquire new assets costing more than £50,000. To get full relief you must acquire new assets costing at least £80,000.

What is the claim time limit?

You can make a claim up to five years from the 31 January in the year following the tax year in which the later of:

- the disposal of the old assets, or
 - the acquisition of the new assets
- took place.

Example 13

You sell a shop in May 2008 and acquire a new shop in August 2010. You must claim roll-over relief by 31 January 2017.

How to claim relief

When you claim relief you must tell us about:

- the old assets you have disposed of
- the amount you received for each of those assets
- the date on which you sold each of them
- the new assets you have acquired
- the dates on which you acquired each of them or the dates on which unconditional contracts for the acquisition of each of these assets were entered into
- the cost of each asset acquired
- the amount of proceeds from the disposal of each old asset that you have used to acquire each new asset.

There is a form on page 8 which you can use to make a claim. Attach it to the *Capital gains summary* pages of your Tax Return.

If you want to make more than one claim, you may use a photocopy of the form.

Provisional relief

You can use the form on page 8 to make a declaration of your intention to use some or all of the proceeds of disposal of an old asset in the acquisition of new assets. If you intend to reinvest all of the proceeds, you can obtain provisional relief on the gains you make on that disposal.

If you intend to reinvest part of the proceeds, you may be able to get provisional relief on part of the gains you make on that disposal. The amount of Capital Gains Tax you can defer is the amount of tax that would have been deferred if you had actually acquired a new asset costing an amount equal to that part. Example 15 on page 7 shows how it works.

If you declare an intention to reinvest but do not acquire new assets and make a claim to roll-over relief, you will have to pay the amount of deferred tax, together with interest on that tax from the date on which it was originally due to be paid, to the date on which you actually pay it.

Provisional relief will be allowed until:

- the date you make a claim to roll-over relief. If you make a valid claim to relief, the tax will be deferred until you dispose of the new asset or, for a depreciating asset, until the time determined in accordance with page 3, or
- the date you notify us that your intention has changed and you no longer intend to reinvest. As interest will be charged on the deferred tax, you can minimise that interest by telling us as soon as possible if your intention has changed. This may be done by contacting us directly. You will then be asked to pay the additional tax due for the year in which the asset was disposed of, together with interest on that tax, or
- three years from the 31 January following the tax year in which you have made the disposal (see Example 14 on page 7)

whichever is the earlier.

If you have not made a valid claim to roll-over relief, or withdrawn the declaration of intent to reinvest, by three years from the 31 January following the tax year in which you made the disposal, you will be asked to pay the tax due for that earlier year, together with interest on that tax. If you acquire a new asset after that time and claim relief, the tax and interest can be repaid to you if you meet the conditions set out on page 4 for the reinvestment time limit to be extended. Your claim will need to be valid in every other respect.

Example 14

You dispose of an old asset in June 2008 for £50,000, making a gain of £20,000. You make a declaration that you intend to reinvest the whole of the disposal proceeds in the acquisition of new assets and intend to claim roll-over relief. You will not pay tax on 31 January 2010 on the gain of £20,000. If you have not claimed roll-over relief, or withdrawn your declaration of intent to reinvest and paid the tax and interest on that gain, by 31 January 2013, we will ask you to pay the tax together with interest from 31 January 2010.

Example 15

You dispose of an old asset in September 2008 for £80,000, making a gain of £30,000. You intend to reinvest only £60,000 in acquiring new assets. If you make a declaration to that effect you can defer the tax on £10,000 of the gain. £20,000 of the disposal proceeds is not to be used to acquire new assets and so a gain of that amount is still charged to tax.

These notes are for guidance only and reflect the position at the time of writing. They do not affect any rights of appeal.

