

REBASING - ASSETS HELD AT 31 MARCH 1982

This Help Sheet gives you information to help you complete the Capital Gains Pages of your Tax Return.

This Help Sheet is only an introduction. If you are in any doubt about your tax circumstances, ask your tax adviser.

Your Inland Revenue office will also be pleased to help. You can ask to see the Inland Revenue Capital Gains Manual which explains the rules for particular situations in detail.

WHAT IS REBASING?

Capital Gains Tax was introduced in 1965 and the rules were designed so that the tax charge was effectively limited to the gain accruing from 6 April 1965 to the date of disposal. In 1988 new rules were introduced to move the base date forward to 31 March 1982.

The rebasing provisions apply where:

- you have made a disposal
- on or after 6 April 1988
- of an asset which you held on 31 March 1982.

The object is that only gains or losses accruing since 31 March 1982 will be brought into account.

BASIC RULES OF REBASING

—Two calculations

The rebasing legislation requires two calculations of the gain or loss accruing on the disposal to be made where:

- no election has been made (see page 4), and
- the disposal is not a specified no gain/no loss transfer (so that the benefit of rebasing is deferred).

The first is by reference to a deemed acquisition of the asset as at 31 March 1982 (the rebased gain or loss); the second must accord with the old rules, that is, without rebasing.

— Indexation allowance

In calculating both the rebased gain and the gain on the old rules, indexation allowance is given by reference to the higher of:

- the 31 March 1982 market value, or
- the relevant allowable expenditure (cost of acquisition and other allowable costs) incurred up to 31 March 1982.

However, indexation allowance cannot be used to create or increase a loss if the disposal is made on or after 30 November 1993.

If there is a gain after deducting costs from the net sale proceeds but a loss after deducting costs and indexation allowance, you are treated as making neither a gain nor a loss.

In the computation of chargeable gains accruing on or after 6 April 1998 indexation allowance has been frozen. This means that indexation allowance will be given for periods up to April 1998, but not after then.

— Kink test

The rebased gain or loss is compared with the gain or loss on the old rules. The gain or loss to be compared is:

- after indexation allowance (restricted if necessary), but
- before any reliefs like private residence relief or retirement relief.

The comparison is known as the 'kink test' and the rules are:

- if both calculations result in a gain, select the smaller gain
- if both calculations result in a loss, select the smaller loss
- If one calculation results in a gain and the other results in a loss, the disposal is deemed to be at no gain/no loss
- if the calculation under the old rules results in no actual gain or loss, or the old rules deem there to be neither a gain nor a loss, then the disposal is deemed to be at no gain/no loss whatever the value of the rebased gain or loss.

This gives the gain or loss which, subject to any further reliefs or exemptions, is the chargeable gain or allowable loss.

Example 1

Rebased gain exceeds the gain on the old rules
Asset cost £8,000 on 1 March 1980. On 31 March 1982 market value was £7,000. Asset sold (at arm's length) for £35,000 on 30 June 1999.

1. Rebased gain (new rules)

Disposal proceeds	£35,000
minus cost (value at 31 March 1982)	£7,000
Unindexed gain	£28,000
minus indexation 8,000 x 1.047*	£8,376
Gain	£19,624

2. Gain on old rules

Disposal proceeds	£35,000
minus cost (1 March 1980)	£8,000
Unindexed gain	£27,000
minus indexation £8,000 x 1.047*	£8,376
Gain	£18,624

Chargeable gain (the smaller)

£18,624

* Indexation is based on the higher of relevant allowable expenditure before 31 March 1982 and the 31 March 1982 value, so that in both calculations indexation is based on the actual cost of £8,000. Indexation has been calculated to April 1998.

Example 2

Rebased loss exceeds the loss on the old rules

Asset cost £14,000 on 6 April 1974.

31 March 1982 market value £20,000.

Asset sold (at arm's length) for £10,000 on 31 July 1999.

1. Rebased loss

Disposal proceeds	£10,000
<i>minus</i> cost (value at 31 March 1982)	<u>£20,000</u>
Unindexed loss	£10,000
<i>minus</i> indexation*	<u>zero</u>
Loss	<u>£10,000</u>

2. Loss on old rules

Disposal proceeds	£10,000
<i>minus</i> cost	<u>£14,000</u>
Unindexed loss	£4,000
<i>minus</i> indexation*	<u>zero</u>
Loss	<u>£4,000</u>

Allowable loss (the smaller) **£4,000**

* Indexation allowance is restricted to zero in both calculations as indexation cannot increase a loss.

Example 3

No actual gain or loss on old rules

Asset cost £1,424 on 1 May 1967.

31 March 1982 market value £8,000.

Asset sold (at arm's length) for £9,800 on 1 August 1999.

1. Gain on old rules

Disposal proceeds	£9,800
<i>minus</i> cost	<u>£1,424</u>
Unindexed gain	£8,376
<i>minus</i> indexation £8,000 x 1.047*	<u>£8,376</u>
	<u>zero</u>

As neither a gain nor a loss arises on the old rules, neither a gain nor a loss is deemed to arise following rebasing.

* Indexation is based on the higher of relevant allowable expenditure before 31 March 1982 and the 31 March 1982 value, so that indexation is based on the 31 March 1982 value of £8,000. Indexation has been calculated to April 1998.

REBASING ELECTIONS

Where you dispose of an asset on or after 6 April 1988 that you held on 31 March 1982, you can elect to have gains and losses on all assets covered by the election calculated by reference to 31 March 1982 values alone, that is without the restrictions imposed by the kink test.

But:

- there is a time limit for making this election
- the election cannot be withdrawn
- indexation allowance is given by reference to the value of the asset at 31 March 1982 (and not by reference to the relevant allowable expenditure incurred up to 31 March 1982, even if that is greater)
- there are special rules for married couples
- certain assets are excluded from the election.

Example 4

Rebasing election in force

Asset cost £8,000 on 1 March 1980.

31 March 1982 market value £7,000.

Asset sold (at arm's length) for £35,000 on 30 June 1999. Rebasing election made.

Rebased gain

Disposal proceeds	£35,000
<i>minus</i> cost (value at 31 March 1982)	<u>£7,000</u>
Unindexed gain	£28,000
<i>minus</i> indexation £7,000 x 1.047	<u>£7,329</u>
Gain	<u>£20,671</u>

These are the same dates and amounts as in Example 1. The difference is that a rebasing election has been made.

No comparison is made with the gain made by reference to the original cost of the asset. The gain is the rebased gain £20,671.

NOTICE OF ELECTION

An election must be made by notice in writing to the Tax Inspector:

- within one year and 10 months of the end of the tax year in which the first relevant disposal is made, **or**
- at such later time as the Board of Inland Revenue may allow.

An election cannot be withdrawn. There is no special form for the election.

— First relevant disposal

The first relevant disposal is the first disposal on or after 6 April 1988 of:

- an asset held at 31 March 1982, **or**
- an asset treated as having been held at 31 March 1982.

In most cases it is the first disposal to which the 1982 rebasing rules apply.

Three kinds of disposal can be disregarded in deciding what counts as a first relevant disposal from which the two year time limit for making an election is counted.

1. Disposals on which the gain would not be a chargeable gain by virtue of a particular provision in the Taxes Acts. Some common examples are:
 - private cars
 - chattels worth less than the chattel exemption
 - foreign currency acquired to meet personal or family expenditure abroad
 - betting and lottery winnings.
2. Disposals which in practice do not give rise to a chargeable gain or allowable loss. The main examples are:
 - withdrawals from building society accounts
 - the disposal of an individual's private residence where the whole of the gain would qualify for relief.
3. Disposals of assets excluded from a rebasing election. These are listed on page 4.

— Husband and wife

There are special rules for elections where assets have been transferred between husband and wife before a disposal.

When an asset is transferred on or after 6 April 1988 between spouses, and the disposal is no gain, and no loss arises on the transfer, any election made by the transferee will be ignored. The asset will be covered by the election or non-election of the transferor.

Where there is a series of such transfers the asset will be covered by the election or non-election made by:

- the last person by whom the asset was acquired after 5 April 1988 (otherwise than by a husband and wife transfer), **or**
- if there is no such person, the person who held the asset on 5 April 1988.

Elections by subsequent transferees are ignored.

Example 5

Transfer between husband and wife.

Mr A bought an asset costing £14,000 on 6 April 1974. 31 March 1982 market value £20,000. Asset sold (at arm's length) for £10,000 on 31 July 1999.

The dates and amounts are the same as in Example 2, therefore the loss is to be restricted by the kink test to £4,000.

Mr A has not made a rebasing election and does not intend to do so.

If Mr A decided to transfer the asset to Mrs A before finalising the sale, and if Mrs A had already made, or could make, a rebasing election, she would realise the rebased loss on sale £10,000.

The special rules prevent this happening. Any election made by the transferee, Mrs A, will not apply. Only an election made by the transferor, Mr A, is recognised in these circumstances.

Therefore, in this case an election made by Mrs A is ignored and the allowable loss is restricted to £4,000, the same as if Mr A had sold the asset himself.

— In what capacity is election made?

You may be the taxpayer in several different capacities. For instance, in addition to your own personal affairs you may also be a trustee or a personal representative of a deceased person or a partner. An election you make in one of these capacities does not cover disposals made by you in another capacity.

For example, an election you make as an individual will not cover your interest in assets held as trustee or partner.

A separate election is required in respect of each settlement or partnership.

Therefore there will be a separate time limit for making an election for each holding of assets held by you in different capacities.

If you do hold assets in different capacities, you should indicate at the time you make an election in what capacity you are making it.

— Excluded assets

An election does not apply to the disposal of the following assets:

- plant and machinery in respect of which capital allowances have or could have been given to the person making the disposal
- oil licences
- shares which, on 31 March 1982, were unquoted and derived the greater part of their value directly or indirectly from oil exploration assets situated in the UK or on the continental shelf (for disposals on or after 22 January 1990).

Interests in such assets are also excluded from the election.

— Who should make the election: Special cases

In some cases you may be personally liable to Capital Gains Tax even though you do not personally own or dispose of an asset.

For example:

- gains made by certain non-resident companies
- gains made by certain non-resident settlements of which you are a beneficiary
- gains made by certain non-resident settlements of which you are a settlor
- gains made by certain UK resident settlements.

In these circumstances, the person who must make an election, if one is to be made, is the person making the actual disposal: the non-resident company, the trustees of the non-resident settlement or the trustees of the resident settlement, as appropriate.

SPECIAL REBASING RULES

There are a number of rules to deal with particular situations which may arise. These are briefly described below. If you need further information, ask your Inland Revenue office.

— Specified no gain/no loss disposals

Special rules apply to specified no gain/no loss disposals. These allow the transferee to benefit from rebasing. The most common specified no gain/no loss transfer is the transfer between husband and wife (see page 3).

Subject to certain conditions the transferee is deemed, for the purposes of the rebasing provisions only, to have held the asset on 31 March 1982.

— Assets derived from other assets

Rebasing may apply on the disposal of an asset where the value of that asset is derived from another asset you owned on 31 March 1982. For example, if you:

- held a leasehold interest in property on 31 March 1982,
- subsequently acquired the freehold reversion, and
- sold the unencumbered freehold interest on or after 6 April 1988.

— Rebasing following part-disposal

Where there has been a part-disposal of an asset:

- after 31 March 1982, **and**
- before 6 April 1988,

the allowable expenditure remaining after the part-disposal has to be recalculated by reference to the 31 March 1982 value rather than cost.

— Deferred charges on gains before 31 March 1982

There are a number of provisions, apart from the no gains/no loss provisions, under which tax on capital gains on a disposal can be deferred until some later time. The most common ones are the hold-over relief provisions for gifts and roll-over relief for the replacement of business assets.

Where gains have been rolled over or held over on the acquisition of an asset, and the asset is later disposed of, the deferred gain is to be reduced by half, thereby increasing the allowable expenditure. A claim has to be made within 2 years of the end of the tax year in which the disposal occurred.

— Relief for certain postponed charges

The amount of the gain accruing is to be halved where:

- the charging of a gain has been postponed under certain provisions, for example, postponement of charge where a depreciating asset is acquired as replacement for a business asset, **and**
- the gain accrues on the occurrence of an event on or after 6 April 1988, **and**
- the gain is attributable, directly or indirectly, in whole or in part, to the disposal before 6 April 1988 of an asset acquired before 31 March 1982,

subject to a claim being made.

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