

Capital Gains Tax - 2009/2010

With the end of the tax year approaching, it is time to consider Capital Gains Tax planning. The timing of Easter means the last business day this tax year will be Thursday 1 April. As stock markets have rallied strongly from the low levels seen last Spring, it would seem an opportune time to look more closely at balance/structure within portfolios. Action now to raise base costs and thus ensure as much flexibility as possible in future years is advisable, particularly as we are facing the probability of a change of government and (regardless of who wins the Election) a potential steep increase in the rate of Capital Gains Tax - see below.

SIMPLIFIED REGIME RETAINED FOR CURRENT TAX YEAR

A substantial simplification of the CGT regime came into effect from 6 April 2008, when indexation and taper relief were both withdrawn. Net gains above the annual allowance (£10,100 for individuals, £5,050 for most trusts) are currently charged at a flat rate of 18%. The rather complex pooling rules were also subject to reform, and apart from the "same day" and "30 day" matching rules, all shares of the same class now constitute a single pool with the cost averaged out.

Any asset acquired before 1 April 1982 is deemed to have been bought at the asset's value on 31 March 1982. There are no exceptions to this rule.

POSSIBLE INCREASE TO TAX RATES LOOMING ?

We should alert clients to the possibility of change to the current favourable CGT rate. A number of leading accountancy firms have suggested that the Chancellor may align CGT with the 40% rate of Income tax. Others have speculated on a two-tier CGT system, "short term" gains being taxed at one's marginal tax rate (up to 50% from 2010/11) and "longer-term" gains taxable at a much lower rate. Whilst this is all purely conjecture at present it does highlight that the historically low tax rate currently in force may not persist much longer given the UK's dire fiscal deficit.

PORTFOLIO DIVERSIFICATION

The swiftness of the fall of the banking sector in 2008 highlights the need to keep portfolios well balanced to diversify risk. Use should be made of established brought-forward losses not utilised. Current and realised losses should also be considered and potentially crystallised to address other areas where longstanding gains are embedded and portfolios therefore still lopsided.

SPOUSAL TRANSFERS

There is still scope to use current CGT freedom to transfer assets tax-free between spouses and between civil partners. This concession may not remain indefinitely.

ARMS LENGTH TRANSFERS

"Arms length" transfers (e.g. between spouses) are also sensible to fully utilise CGT allowances. "Bed & spouse", "bed & ISA" and "bed & breakfast" (old style "B&B"s require for there to be no repurchase within 30 days) are all legitimate and worthy routes to increase CGT efficiency.

CALCULATIONS

It is sensible to review CGT in good time before the end of the tax year. We will do what we can to help in calculating the CGT position on a best endeavours basis, but stress that **it is always advisable to check the accuracy of our calculations with your accountant**. We cannot promise to complete reviews of CGT if requested right at the last moment. It is very helpful if you can supply us with as much information as possible regarding costs and dates of acquisitions, and also details of relevant other issues.

INSTRUCTING TRANSACTIONS

If you instruct us to deal you should receive a contract note in the normal way, i.e. within two days. Should this not happen, it is essential that we are contacted promptly so that the position can be clarified. Instructions sent by e-mail can be delayed, and we therefore cannot guarantee execution of these transactions close to the end of the tax year. If there is any doubt please follow up by telephone. **We are unable to accept responsibility for making good any errors, unless we are informed promptly.**

ISAs

ISAs remain an important tool for long-term saving to provide future flexibility through the ability to shelter investments from CGT. There is also a worthwhile income tax advantage for higher rate taxpayers, and this will be accentuated more from the start of the new tax year when the top rate of income tax is scheduled to rise to 50% (for those earning over £150,000). The current-year subscription level remains at £7,200 for those under fifty, but there is a window of opportunity for those aged fifty or over to subscribe an additional £3,000 by 5 April 2010. As from 6 April 2010 the maximum subscription will be £10,200 for everyone over eighteen. Subscriptions can be by cash or via "Bed and ISA" style transactions.

CASH ISAs

A change to the rules announced earlier by HMRC allows for existing Cash ISAs to be transferred into the Speirs & Jeffrey Stocks and Shares ISA to consolidate all ISA monies. It should be recognised that money within a Stocks and Shares ISA is held for ultimate investment, rather than as a long-term cash reserve. Before deciding to transfer a Mini Cash ISA, it is important to stress that the characteristics of a Stocks and Shares ISA are different to those of a Cash ISA. We could invest the monies in gilts, whether conventional gilts aiming towards income return or index-linked gilts, which provide inflation proofing of both capital and income. Please note any transfer from a Cash ISA to a Stocks and Shares ISA is irreversible.

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