

Chapter 12

CAPITAL GAINS TAX – INDIVIDUALS

1 Individuals and Companies

Individuals are subject to Capital Gains Tax (CGT) on their chargeable gains of the tax year. The chargeable gains of a company however, are included on the company's Corporation Tax Computation along with its taxable income and the company's overall taxable total profits are then subjected to Corporation Tax, as you will see later in these course notes.

A chargeable gain or allowable loss arises on a chargeable disposal of a chargeable asset by a chargeable person.

The basic calculation of the chargeable gain is a simple one, deducting the allowable costs of an asset from its net proceeds upon its sale. A company NOT an individual may then further reduce any gain for the effects of inflation by the deduction of Indexation Allowance - a relief for the effects of inflation (see Chapter 19).

Qualifying gains may then be eligible for certain reliefs that will allow such gains or parts thereof to be either exempted from tax or and more commonly, deferred from immediate chargeability to tax.

1.1 Chargeable Disposal

A chargeable disposal will usually occur by the sale of an asset but will also arise when an asset is gifted, lost or destroyed. There is no chargeable disposal upon the death of the taxpayer, however, when assets will pass free of CGT to the beneficiaries at their market (probate) value. Sadly, although no CGT arises upon death, a chargeability to Inheritance Tax (IHT) may arise (see chapter 24).

1.2 Chargeable Assets

All assets are chargeable unless specifically exempted.

Exempt assets include:

- Motor vehicles suitable for private use
- National Savings & Investment certificates
- Foreign currency for private use
- Decorations awarded for bravery
- Damages for personal injury
- Life insurance policies
- Works of art given for national use
- Gilt edged securities (Government Securities such as Exchequer Stock)
- Qualifying Corporate Bonds (Corporate loan stock)
- Certain Chattels (tangible moveable property such as antiques)
- Investments held in an ISA

1.3 Chargeable Person

An individual who is resident in the UK is a Chargeable Person and is therefore liable on their worldwide assets.

1.4 CGT computation

- (a) Capital gains and losses are aggregated for each tax year.
(b) Basic capital gains computation

Capital Gains in tax year	X
Less: Capital losses in tax year	(X)
Chargeable Gains in tax year	X
Less: AEA	(12,300)
	X
Less Capital losses b/f	(X)
Taxable Gains	X
CGT × 10%, 20% or 18% and 28%	X

Due (for 2021/22) 31/1/23

The gains included above will be after deducting any reliefs that may be available (see Chapter 14). A chargeable gain or allowable loss of an individual is computed as follows:

Disposal proceeds	X
Less: Selling Expenses	(X)
Net proceeds	X
Less: Costs	(X)
Capital Gain / (Capital loss)	X / (X)

Individuals do not get indexation allowance on disposals as companies do, but they do benefit from an Annual Exempt Amount which is not available to companies, this as shown above amounts to £12,300 for the 2021/22 tax year.

Other than the calculation of the gain the main problem is then knowing which of the possible tax rates shown above will apply (see section 1.7 below)

1.5 Annual Exempt Amount (AEA)

- (a) Every individual (not a company) has an exempt amount of gains for each tax year. For 2021/22 it is £12,300
(b) If the annual exempt amount is not used it is wasted.

1.6 Payment of CGT

CGT is due in one amount on 31 January following the end of the tax year (for 2021/22 by 31 January 2023)

Payments on account of the CGT liability are required however in respect of gains made on the disposal of residential property - see later note.

1.7 Rates of CGT

- (a) The capital gains tax rates are determined by the level of a person's taxable income from their income tax computation, the type of asset sold and the availability of business asset disposal relief and investors' relief.
(b) Assets qualifying for business asset disposal relief (qualifying business assets - see Chapter 14) will always be taxed at 10% up to a maximum lifetime limit of £1m.
(c) Shares qualifying for investors' relief will also be taxed at 10% but up to a maximum lifetime limit of £10m
(d) Residential property gains not covered by the taxpayer's Private Residence Relief (see Chapter 14), will be taxed at either 18% or 28%
(e) Gains on any other assets will be taxed at either 10% or 20%
(f) In computing the Taxable Gains figure shown above any capital losses and the AEA will be deducted from gains in the following order: (1) Gains on residential property (taxed at 18% and 28%) (2) Gains on other assets (taxed at 10% and 20%), and finally (3) Gains on assets qualifying for business asset disposal relief taxed at 10%
(g) The order shown in note (e) above ensures that the deductions from gains are applied firstly against

gains taxable at the highest tax rates

- (h) Chargeable gains are taxed at the lower rates of 10% (or 18%) where they fall within the available basic rate tax band of £37,700 of the taxpayer and at the higher rates of 20% (or 28%) where they exceed this band. The basic rate band is extended by the gross personal pension contributions and gift aid payments paid as for income tax purposes as seen in Chapter 2.
- (i) The taxpayer's Taxable Income from his Income tax Computation is used as the basis for applying the relevant CGT rates to his figure of Taxable Gains. After considering a person's taxable income from their Income Tax Computation a CGT rate of 10% or 18% is applied on those taxable gains that fall into any remaining basic rate band (or extended basic rate band if the person makes gift aid donations or pays personal pension contributions).
- (j) After considering a person's taxable income, a CGT rate of 20% or 28% is then applied on those gains in excess of the remaining basic rate band (or extended basic rate band).

For example if the taxpayer had taxable gains of £15,000 (none qualifying for either business asset disposal relief, investors' relief, nor being residential property) and had taxable income for the tax year 2021/22 of £27,700, then the first £10,000 of his taxable gains would use up his remaining basic rate band ($37,700 - 27,700$) and be taxed at 10% leaving £5,000 of his taxable gains to be taxed at 20%.

If the taxable income had been £40,000 then all the taxable gains would fall within the higher rate band and be taxed at 20%. Remember in these calculations you have been given the taxable gains figure which is AFTER having deducted any capital losses and the AEA and the taxable income figure which is after deducting the PA of the taxpayer.

If the taxable gains of £15,000 had been on residential property then the tax rates to be used would be 18% instead of 10% and 28% instead of 20%!

EXAMPLE 1

Tina sold a painting on 1 July 2021 for £500,000. She purchased the painting in February 1997 for £350,000. She also disposed of a commercial investment property for £310,300 on 1 December 2021 and incurred agency fees of £15,000 on the disposal. She had purchased the property in August 1998 for £200,000. In addition she sold an antique vase for £10,000 in January 2022 which had cost her £15,000 in September 2019.

Tina had capital losses brought forward from previous tax years of £15,000. Tina's taxable income for 2021/22 is £50,000.

Calculate Tina's Capital Gains Tax for 2021/22

In attempting Section A or Section B questions on calculations of CGT it is EVEN MORE important than ever to ensure that you properly read and understand the information provided in the question, for example:

- Does the question give you the figure of taxable gains which is after deducting any capital losses and AEA, or does the question just tell you the chargeable gains and you have to then compute the taxable gains
- Does the question give you the taxable income of the taxpayer for the tax year or are you simply provided with income figures that require you to then deduct the personal allowance of the taxpayer to compute the taxable income

In addition read carefully the requirement of the question to ensure that you are actually answering the correct requirement, for example:

- Does the requirement actually ask you to calculate the CGT liability of the taxpayer or simply to compute the taxable gains of the taxpayer
- Does the requirement ask you to compute the taxable gains (after AEA and losses b/f) or simply the chargeable gains (before AEA and losses b/f)

Do NOT rush into calculations before you have properly understood the requirement of the question and the information given in the question!

EXAMPLE 2

Matthew has trading profit of £20,000 assessed in 2021/22 and sold an antique vase giving rise to a capital gain of £18,300.

Calculate Matthew's capital gains tax for 2021/22

EXAMPLE 3

Katie has trading profit of £41,000 assessed in 2021/22. In addition she sold a commercial investment property giving rise to a capital gain of £30,300.

Calculate Katie's capital gains tax liability for 2021/22

EXAMPLE 4

Elliot has trading profit of £45,270 assessed in 2021/22. In addition he sold a painting giving rise to a capital gain of £26,300.

He made a gift aid payment of £2,400 in 2021/22.

Calculate Elliot's capital gains tax for 2021/22

EXAMPLE 5

Gaynor had a trading profit assessment of £21,770 in 2021/22 and no other taxable income. She sold two assets during the tax year, a residential investment property giving rise to a chargeable gain of £30,300 and a diamond ring yielding a chargeable gain of £12,000.

Calculate Gaynor's CGT liability for 2021/22

1.8 Disposal proceeds

Actual consideration is used when the disposal is made at arm's length.

Market value is used in other cases for example when the disposal is a gift - remember that a chargeable disposal includes a gift and therefore open market value should be used in computing the gain.

When quoted shares are gifted the value may not be given in the exam and should be calculated as the mid price based on the day's quoted prices given in the question.

EXAMPLE 6

Jenny gifted 1,000 shares in M plc when they were quoted at £4.00 - £4.08p

Calculate the value to be used for capital gains disposal proceeds

1.9 Incidental costs would include:

- (a) legal fees
- (b) advertising fees
- (c) auctioneers fees
- (d) agency fees

1.10 Costs

Costs include:

- (a) the cost of acquisition and any incidental costs of acquisition - if an asset was acquired as a result of a gift to the taxpayer it will be deemed acquired at its then market value
- (b) expenditure on enhancing the value of the asset (improvement expenditure)

2 Losses

- (a) Where capital losses arise they are set against capital gains in the same tax year.
- (b) The current year losses set off is made to the maximum possible extent – it cannot be restricted to avoid wasting the Annual Exempt Amount (AEA)
- (c) If there are insufficient gains to set off against the capital losses in the year they arise, the unrelieved capital losses will be carried forward.
- (d) If net gains do arise then the AEA is then deducted from any net chargeable gains of the tax year - if the AEA is larger than the chargeable gains the remaining AEA is lost. The capital losses brought forward are then deducted after the AEA and therefore will not waste the AEA
- (e) Any capital losses brought forward that are unused are carried forward.

EXAMPLE 7

Fiona and Jane made capital gains and capital losses for the years 2020/21 and 2021/22 as set out below:

	<i>Fiona</i>	<i>Jane</i>
2020/21		
Capital gains	15,000	7,000
Capital losses	10,000	10,000
2021/22		
Capital gains	17,000	15,000
Capital losses	4,200	2,000

Calculate the taxable gains for Fiona and Jane for both 2020/21 and 2021/22 and the amount of any losses carried forward at the end of 2021/22

3 Transfer of assets between a husband and wife or between civil partners

The transfer of assets between spouses or civil partners will always for CGT purposes be deemed to take place at a value that would give rise to neither a gain nor a loss - this is not an election, it is a rule! The transfer is said to be a nil gain/ nil loss or no gain / no loss transfer. Essentially the transferor is deemed to make the disposal at cost and the transferee acquires the asset at the original cost of the transferor.

The no gain / no loss transfer rules may be advantageously used by these taxpayers to utilise the AEA of both parties, and to take advantage of capital losses and lower capital gains tax rates. For example it would be better for each spouse to yield gains of £10,000 each rather than one spouse make gains of £20,000. It would also be better for a basic rate taxpayer to yield taxable gains, taxed at 10% / 18% instead of a higher rate taxpayer who would be taxed at 20% / 28% on the same gains.

EXAMPLE 8

Gollum bought a ring in July 1993 for £12,000. He transferred it to his civil partner Frodo in December 2021 when its market value was £20,000. Frodo then sold the ring in January 2022 for net proceeds of £20,000.

Calculate any capital gain for Gollum or Frodo in 2021/22

4 Part Disposals

- (a) A chargeable asset may be only partly disposed of, for example a taxpayer acquires 100 hectares of land and subsequently sells 40 of those hectares. This will give rise to a chargeable gain computed in the normal way, but a specific problem arises however regarding what figure of cost should be used in the gains calculation. It may seem appropriate to use 40/100 of the original cost, given the quantity of land purchased and then sold. This, however is not the basis used and a market value based apportionment of the total cost should instead be used
- (b) The cost of the whole asset is multiplied by the following fraction to compute the allowable cost of the part now sold:

$$\frac{A}{A + B}$$

where:

A = Gross proceeds of part disposed

B = Market value of the remainder of the asset at time of disposal (this will be given in the question)

EXAMPLE 9

ST owned 10 hectares of land which originally cost £26,000 in March 2018. ST sold 2 hectares of the land in December 2021 for £16,000.

The remaining 8 hectares were valued at £34,000 in December 2021.

Calculate the chargeable gain on the disposal of the 2 hectares of land in December 2021

5 Chattels

- (a) A chattel is a tangible moveable asset
- (b) A wasting chattel is one with an estimated remaining life of 50 years or less. These are exempt assets. Examples include racehorses, greyhounds (dogs) and yachts (boats).
- (c) There is an exception for plant & machinery on which capital allowances have been claimed, these assets are treated as non wasting chattels. If plant and machinery is not covered by the non wasting chattel exemption in note (d) below, then a gain would need to be computed upon its disposal. Such a calculation is seldom required however as it would normally be sold for much less than cost. A capital loss will not however arise in this situation as capital allowances will already have given tax relief for the net cost of ownership of the asset.
- (d) A non wasting chattel is one with an estimated remaining life of more than 50 years. Examples include antiques and paintings. There are special rules to determine the chargeable gain or capital loss.

Cost	Proceeds	Treatment
$\leq £6,000$	$\leq £6,000$	Exempt
$\leq £6,000$	$> £6,000$	Normal calculation but the gain is restricted to a maximum $5/3 \times [\text{Gross proceeds} - 6,000]$
$> £6,000$	$< £6,000$	Deemed Gross Proceeds = £6,000
$> £6,000$	$> £6,000$	Normal calculation

EXAMPLE 10

JM sold the following assets in December 2021

- (a) an antique table which had cost £3,000 in February 2015 and sold for £5,000
- (b) a painting which had cost £2,000 in January 2018 and sold for £10,000
- (c) an antique vase which had cost £8,000 in August 2002 and sold for £3,000
- (d) a vintage car which had cost £7,000 in July 1999 and was sold for £9,000

Calculate the net chargeable gains or losses arising for JM in December 2021

6 Other wasting assets (that are not chattels)

An example of a wasting asset which is not a chattel is a copyright.

The allowable expenditure is deemed to waste away over the life of the asset.

When a disposal is made, the allowable expenditure is restricted to take account of the assets natural fall in value. This fall in value is deemed to occur on a straight line basis over its predictable useful life.

Therefore to compute the allowable cost the original cost must therefore be reduced BY

$$\frac{P}{L} \times (C - S)$$

where

P = Period of ownership of seller

L = Predictable Life of asset on acquisition

C = Cost of the asset

S = Scrap / residual value at the end of the assets' predictable life

EXAMPLE 11

On 1 December 2009 Z bought a copyright at a cost of £25,000. It had an estimated useful life of 30 years, and an estimated residual value of £1,000.

Z sold the asset for £38,000 on 1 December 2021.

Calculate the chargeable gain arising on the sale of the copyright in December 2021.

7 Payments on account for CGT on disposal of residential property

In Section 1.6 of this chapter we learned that the CGT liability for a tax year was payable by the 31st January following the end of the tax year, so for 2021/22 any CGT payment must be made by 31st January 2023. A payment on account however, along with a return to HMRC, must be made within **30 days** of the disposal of a **residential** property.

In computing the payment on account the following deductions should be made from the gain:

- Any **current** tax year capital **losses** incurred prior to the property disposal
- The **AEA** of the tax year
- Any capital **losses b/f** at the start of the tax year

It will also require an estimate of how much, if any, of the taxpayer's basic rate band will be available for the tax year – this information will be provided in the exam.

The chargeable gain will then also be included in the normal self assessment CGT computation for the tax year with any payment on account then being deducted in deriving the final CGT liability to be paid by the normal due date of 31 January following the tax year. Once again as residential property has a higher rate of tax, any losses and AEA will be deducted firstly from the gain on the property in computing the CGT liability.

ILLUSTRATION

Lee is a higher rate taxpayer and during the 2021/22 tax year made the following chargeable disposals:

10 May 2021	A gain of £22,500 on the disposal of a painting
8 July 2021	A loss of £6,000 on the disposal of shares
31 October 2021	A gain of £67,500 on the disposal of a residential property
20 January 2022	A loss of £11,000 on the disposal of shares

Compute the amounts of CGT payable in respect of 2021/22 stating what payments must be made and the dates by which they should be paid.

Answer

As a residential property was sold on 31 October 2021 a payment on account will be required to be made by 30 November 2021 and will be computed as follows:

	£
Residential property gain	67,500
Less: Capital loss 8 July 2021	(6,000)
AEA 2021/22	<u>(12,300)</u>
Taxable gain	<u>49,200</u>
Taxed at 28%	<u>13,776</u>

The additional CGT due by 31 January 2023 will be computed as follows:

	£	£
Residential property gain	67,500	
Other gains		22,500
Losses (6,000 + 11,000)	(17,000)	
AEA 2021/22	<u>(12,300)</u>	
Taxable gains	<u>38,200</u>	<u>22,500</u>
Taxed @ 28% / 20%	<u>10,696</u>	<u>4,500</u>

Additional CGT liability = (10,696 + 4,500) – 13,776 = £1,420

You should now review the following part of the ACCA Finance Act 2021 technical article written by the TX-UK examining team: Capital Gains Tax section up to Business Asset Disposal Relief and work Examples 28 - 29

You should now attempt Practice Questions 29 & 30

Chapter 13

CAPITAL GAINS TAX – INDIVIDUALS – SHARES

1 Shares and securities

1.1 Gift edged securities and Qualifying Corporate Bonds

Disposal of these investments are exempt.

1.2 Disposal of shares

Where shares are disposed of a problem arises in computing the allowable cost as shares in a company may have been acquired over several acquisitions at different costs at different dates. Therefore HMRC have deemed that when shares in a company are disposed of, they are matched against acquisitions of shares in that company in the following order:

- Shares acquired on the same day (as the sale)
- Shares acquired within the 30 days following the sale
- Shares from the share pool

Note: The matching rules for individuals are different from those that apply to companies

1.3 The share pool

This keeps a record of the following details of all shares acquired in a company

- (a) number of shares
- (b) cost of shares
- (c) the number of shares will include all acquisitions including bonus issue and rights issues. Bonus issues are where a company issues free shares on a proportionate basis to its existing shareholders. Rights Issues are where a company seeks to raise new share capital and offers its existing shareholders the right to acquire on a proportionate basis additional shares in the company at an advantageous share price.
- (d) the shares disposed of from the share pool will be deemed disposed of at the average cost of shares held in that pool.

The share pool is easier to produce for individuals than for companies, for as no indexation allowance applies the only information recorded is number of shares and cost of shares

EXAMPLE 1

Jane owns shares in ABC Ltd. She acquired 1,500 shares in the company on 31 May 2016 for £20,000, and 500 shares on 30 June 2017 for £10,000. On 7 July 2021 Jane bought a further 200 shares in ABC Ltd for £4,000. Jane sold 1,000 shares in ABC Ltd on 28 June 2021 for £25,000. She is not an employee of ABC Ltd.

Calculate Jane's capital gain on the disposal of the shares on 28 June 2021.

2 Bonus issues

- (a) Bonus shares increase the number of shares held with no corresponding increase in cost

EXAMPLE 2

Graham had the following transactions in Alderholt Ltd shares:

February 2017	Purchased 7,000 shares for £15,000
June 2017	Purchased 1,000 shares for £4,000
July 2017	Bonus issue of one for five
October 2021	Sold 5,000 shares for £20,000

Calculate the capital gain arising on the disposal in October 2021.

3 Rights issue

The share pool is increased by the number and cost of the shares acquired via the rights issue.

EXAMPLE 3

Mark is an employee of Romsey Ltd. He had the following transactions in the company shares:

February 2017	Purchased 6,000 shares for £15,000
June 2017	Purchased 900 shares for £2,700
July 2017	Took up 1 for 3 rights issue for £3.00 per share
September 2021	Sold 6,000 shares for £24,000

Calculate the capital gain on the disposal in September 2021.

4 Takeovers

- (a) Where a takeover is a share for share exchange, also known as a paper for paper transaction, the shareholders of the company taken over receive shares in the acquiring company. This normally does not constitute a disposal for CGT purposes as no cash is received and the taxpayer simply acquires shares in the takeover company on a proportionate basis to the shares held in the existing company.
- (b) The new shares are deemed to have been acquired at the same cost as the original shares.
- (c) If more than one type of share, for example ordinary and preference shares, are acquired in the takeover company then the cost of the original holding is attributed to the different components of the new holding on a basis of the market values of the new holding. Thus if a shareholder acquired on takeover £300,000 of ordinary shares and £100,000 of preference shares in the takeover company they would be allocated respectively 3/4 and 1/4 of the original shareholding's cost. These costs may then be used to compute any subsequent gain arising on the sale of either those ordinary or preference shares. See example 4 below.
- (d) This treatment is automatic, however the shareholders can elect for the event to be treated as a disposal for CGT purposes and for the gain to be immediately chargeable. This would usually happen where the original shareholding now being sold is eligible for the business asset disposal relief tax rate of 10% (see later note) but the new shares acquired would not be eligible for business asset disposal relief on their future disposal and would probably face a tax rate of 20% instead of 10%. Therefore better to be taxed sooner at 10% rather than later at 20%.
- (e) If at takeover, some cash is also received, a capital gain needs to be calculated at takeover for the cash element received. (see example 5 below)

EXAMPLE 4

In May 2015 Mark purchased 4,000 ordinary shares in Silver Ltd for £12,000. In June 2019 Silver Ltd was taken over by Gold Ltd and Mark received 2 ordinary shares and 1 preference share in Gold Ltd for each ordinary share held in Silver Ltd.

Immediately after the takeover the ordinary shares in Gold Ltd were valued at £5 and the preference shares in Gold Ltd were valued at £2.

In July 2021 Mark sold all his holding ordinary shares in Gold Ltd for £35,000.

Mark was not an employee of Silver Ltd or Gold Ltd.

Calculate the capital gain arising on the disposal in July 2021.

EXAMPLE 5

Using example 4 what difference would it make if Mark received at takeover

2 Gold Ltd ordinary shares valued at £5.00 each and £2 cash for each share in Silver Ltd

Calculate the capital gain arising in June 2019

You may now attempt Practice Questions 32 & 33

Chapter 14

CAPITAL GAINS TAX – INDIVIDUALS – RELIEFS

1 Business Asset Disposal relief

1.1 Introduction

- This relief is available for individuals disposing of a business or part of a business.
- The relief covers the first £1m of qualifying gains that an individual makes during **their lifetime**. This qualifying gain is taxed at a capital gains tax rate of 10% regardless of a person's taxable income with any gains in excess of the limit being charged at 20%.

1.2 Conditions

(a) The assets must have been owned for 2 years prior to the date of disposal

(b) The relief is available on:

- » A disposal of the whole or part of a business run as an unincorporated business (sole trader or partnership). The relief is not therefore available if a trader simply disposes of an asset that is used in the trade (but see next point on sale of assets post cessation of trading). The assets must be used for the purpose of the business, so the relief is not available on investments.
- » Individual business assets of the individuals' or partnerships' trading business that has now ceased. Note the disposal of assets must take place within three years of the cessation of trade.
- » The disposal of shares in a trading company where the individual has at least a 5% shareholding in the company AND is also an employee (part time or full time) of the company for the 24 months prior to disposal. There is no restriction of the relief if the company owns investments. The company is either a trading company or it is not, there is no apportionment of the gain eligible for relief.

1.3 Time limit for claim

The relief must be claimed within 12 months of the 31 January following the end of the tax year in which the disposal is made. Thus for 2021/22 by 31 January 2024 and by 31 January 2025 for 2022/23.

EXAMPLE 1

On 30 September 2021 Daisy sold a business that she ran as an unincorporated trade since February 2013. The sale resulted in the following capital gains and capital losses on the disposal of the business assets:

Goodwill	250,000
Factory	320,000
Warehouse	(90,000)

In December 2021 Daisy also sold a 20% shareholding in Bed Ltd, an unquoted company. Daisy had been an employee of Bed Ltd from the date she acquired the shares in July 2015. The gain arising was £370,000

Calculate Daisy's Capital Gains Tax in 2021/22

1.4 Further points

- The gains qualifying for business asset disposal relief must be taken into account when establishing which tax rate applies to other taxable gains in the tax year, in that they are deemed to firstly use any amount of unused basic rate band.
- The AEA and any capital losses should however be deducted firstly from gains that do not qualify for business asset disposal relief as they are taxed at a higher CGT rate (20% or 18% / 28%)
- The easiest approach in dealing with questions that include gains qualifying for business asset disposal relief and gains that do not qualify is to keep the gains separate.

EXAMPLE 2

Anne sold her shareholding in Annie limited for £500,000 in 2021/22. The shares had cost her £50,000 in July 1991. She owned 100% of the shares in Annie Limited and had been a full time director since the date of acquisition. She had not previously made any disposals qualifying for business asset disposal relief.

In addition she sold an antique painting realising a capital gain of £100,000.

Anne had capital losses brought forward of £25,000 from 2020/21 and her taxable income for 2021/22 was £18,000.

Calculate Anne's capital gains tax for 2021/22 and state the due date for payment.

2 Investors' Relief

Investors' relief is available on the disposal of **qualifying shares** by qualifying individuals and like business asset disposal relief will tax gains on those disposals at a rate of 10%.

There is a lifetime limit of £10M.

Qualifying shares must:

- Have been subscribed for by the individual on or after 17 March 2016 in an unquoted trading company and held for a minimum period of 3 years from 6 April 2016.
- Unlike business asset disposal there is no minimum level of shareholding required and the shareholder must not have been an employee or director of the company (other than an unpaid director).

EXAMPLE 3

On 20 October 2021 Ashley sold 30,000 shares in Toon Ltd an unquoted trading company, for £375,000 net of selling expenses of £10,000.

Toon Ltd has in issue one million £1 ordinary shares that had been subscribed for at par by the existing shareholders on 1 September 2016. Ashley had subscribed for 40,000 shares but has never worked in Toon Ltd.

In 2021/22 Ashley had taxable income of £60,000 and had made other asset disposals giving rise to chargeable gains of £7,000.

Compute the CGT liability for Ashley on the disposal of the Toon Ltd shares in 2021/22.

3 Replacement of business assets (Rollover Relief)

3.1 Definition

A gain may be 'rolled over' (deferred) where it arises on the disposal of a qualifying business asset whose sale proceeds are reinvested in another qualifying business asset.

3.2 Qualifying assets

Both the old and new assets must fall into one of the following categories:

- (a) Land and buildings
- (b) Fixed plant and machinery

Both the old and new assets must be used in the business.

3.3 The relief

- (a) The gain is not taxed immediately but is postponed until the trader makes a disposal of the replacement asset without further replacement.
- (b) The postponement is achieved by deducting the gain made on the old asset from the cost of the new one.
- (c) Where the disposal proceeds of the old asset are not fully reinvested, the surplus retained reduces the amount of capital gain that can be rolled over.
- (d) The replacement asset must be bought in the period 12 months before to 36 months after the disposal of the old asset.
- (e) Rollover relief is available on the sale of an individual asset so business asset disposal relief would not normally be available.

However, if the whole business is sold and rollover relief is claimed on part of the gains - any remaining gains could be eligible for business asset disposal relief.

- (f) A claim must be made within 4 years from the end of the tax year in which the disposal occurred. For disposals in 2021/22 by 5 April 2026 and by 5 April 2027 for disposals in 2022/23.

EXAMPLE 4

Jones purchased a property for use in his business in March 2006 for £250,000. In August 2021 he sold the property for £300,000 and spent £320,000 in June 2021 on a new business property.

Calculate the gain to be deferred and the base cost of new asset.

EXAMPLE 5

Jerome bought a factory in June 2004 for £680,000. In August 2021 wishing to move to a more convenient location, he sold the factory for £800,000. He moved into a rented factory until January 2022 when he purchased and moved to a new factory.

Assuming that all beneficial claims are made calculate the base cost of the new factory if it was purchased for

- (a) £750,000
- (b) £600,000

3.4 Non-business use

- (a) Full rollover relief is only available where the asset being replaced (the old asset) was used entirely for business purposes throughout the trader's period of ownership
- (b) Where this condition is not met rollover relief is limited in proportion to the business use.
- (c) The asset is treated as two separate assets, one that qualifies for relief (the part wholly used in the trade) and another that does not.

EXAMPLE 6

Jake purchased a factory in May 2013 for £540,000 for use in his trade but let out 15% of the factory. In July 2021 he sold the factory for £600,000 and bought another factory in June 2021 to be used entirely for business purposes for £650,000 and claimed rollover relief.

- (a) **What is the chargeable gain arising on the disposal in July 2021?**
- (b) **What is the base cost of the new factory?**

3.5 Reinvestment in depreciating asset

3.6 Definition

- (a) An asset with an expected life of a maximum 60 years or
- (b) Fixed plant and machinery

Note: You will only be examined on fixed plant and machinery and leasehold property with a life of 60 years or less.

3.7 Effect

If the new asset is a depreciating asset.

- (a) The gain deferred is not deducted from the cost of the new asset
- (b) Instead it is postponed until the earliest of:
 - (i) disposal of the new asset
 - (ii) the date the new asset ceases to be used in the trade
 - (iii) 10 years after the new asset was acquired.
- (c) Business asset disposal' relief is only available if any remaining gains after the relief are in relation to the disposal of the whole business.

EXAMPLE 7

Charles purchased a freehold factory in May 2009 for £300,000 for use within his trade. In June 2021 he sold it for £500,000 and in May 2021 bought a 55 year leasehold factory building for £600,000. In February 2023 Charles sold the leasehold factory for £640,000 and moved into rented premises.

Calculate the chargeable gains arising on the disposals of the freehold factory and the leasehold factory assuming Charles claims to defer gains where possible.

3.8 Acquisition of a new non-depreciating asset

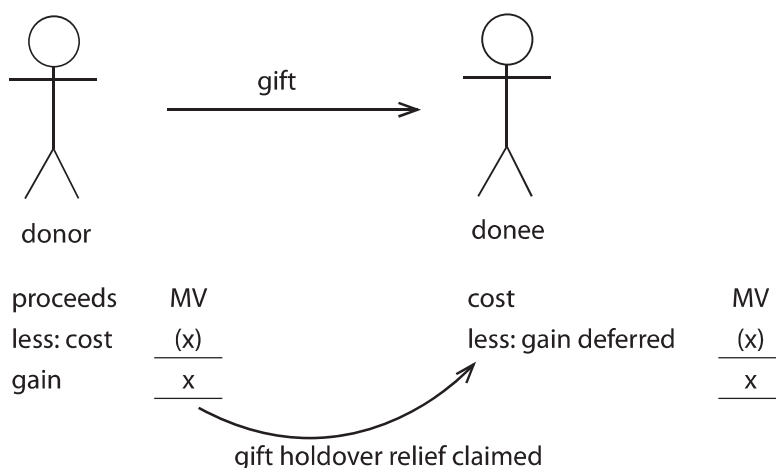
- (a) If a new non-depreciating asset is acquired before the deferred gain becomes taxable, rollover relief can be claimed.
- (b) The capital gain on the original asset is then rolled over into the new non-depreciating asset and the depreciating asset is, effectively, ignored.

4 Relief for the gift of business assets - gift holdover relief

4.1 Nature of relief

- (a) A gift is a chargeable disposal and if the asset is a chargeable asset it will be subject to capital gains tax
- (b) The donor (the person making the gift) is treated as making a disposal of the asset at market value.
The donee (the person receiving the gift) is treated as if they acquired the asset at market value.
- (c) When gift holdover relief is claimed, the donor's gain is deferred. The gain is deducted from the donee's cost (market value)

This can be illustrated as follows:



EXAMPLE 8

David bought an asset for £60,000 in June 2017. In September 2021 he gifted it to Tommy, when its market value was £100,000. The asset qualified for gift relief.

Assuming David and Tommy make a claim for gift holdover relief calculate Tommy's base cost of the asset.

4.2 Interaction with business asset disposal relief

- (a) When a claim for gift holdover relief is made, the donor may lose entitlement to business asset disposal relief
- (b) If the asset qualifies, then gift holdover relief if claimed is applied before business asset disposal relief.

4.3 Availability of the relief

- (a) The relief is only available to individuals not companies
- (b) The claim must be made by both the donor and donee and must be made 4 years from the end of the tax year in which the disposal occurred. For example for a gift made in 2021/22 the claim must be made by 5 April 2026.

4.4 Qualifying assets

Gift holdover relief may be claimed on the gift of the following assets:

- (a) Assets used in the trade of:
 - » the donor (i.e. where he is a sole trader)
 - » the donor's personal company (see below) (this extends the relief to assets owned by the individual but not used by him directly for trading purposes).
- (b) Shares and securities of trading companies provided that one of the following conditions apply:
 - » the shares or securities are not quoted on a recognised stock exchange or
 - » the shares or securities gifted are those of the individual's personal company

A company qualifies as an individual's personal company if at least 5% of the voting rights are owned by the individual

4.5 Sale at undervalue

- (a) Gift holdover relief is also available for sales made below market value, where there is an element of gift.
- (b) Any proceeds received in excess of the original cost are chargeable to CGT immediately.
- (c) The gift holdover relief is therefore reduced by this amount

EXAMPLE 9

Richard acquired a 25% holding in an unquoted trading company in March 2005 for £60,000. He immediately became an employee of the company.

In March 2022 he sold the shares to his son for £85,000 when their value was £200,000. Richard and his son claimed relief for a gift of a business asset.

- (a) **What is the chargeable gain, if any, incurred by Richard?**
- (b) **What is the base cost of the shares for Richard's son?**

4.6 Assets not wholly used for trading purposes

- (a) Where only part of an asset is used for trading purposes, or where an asset has been used for only part of the donor's period of ownership, then gift holdover relief is restricted.
- (b) Where the gift is shares and the individual owns at least 5% of the voting rights, then the capital gain on the shares eligible for relief is restricted by the following fraction:

$$\frac{\text{Market value of company's chargeable business assets (CBA)}}{\text{Market value of company's chargeable assets (CA)}}$$

Note that this treatment is completely different to that which applies for business asset disposal relief. Remember that for business asset disposal relief purposes there is no question of apportionment. A company is either a trading company (and therefore qualifies for the business asset disposal relief) or it is not.

4.7 Chargeable assets (CA) and chargeable business assets (CBA)

- (a) An asset cannot be a chargeable asset where any profit that might arise on its disposal would not be a chargeable gain. This provision rules out current assets such as inventory (stock) and receivables (debtors) and exempt assets such as cash, motor cars and exempt chattels. This will include all chargeable assets held by the company, both those used in the business and those held as investments.
- (b) Chargeable business assets are those chargeable assets that are used for the purposes of a company's trade (including goodwill purchased before 1/4/02, but excluding shares, securities and other assets held as investments).

EXAMPLE 10

John owns 100% of the shares in John Ltd of which he is the managing director. On 1 December 2021 he made a gift of the shares to his son, when the market value of the shares was £800,000. The shares cost £200,000 in February 2001. At the time of the gift John Ltd owned the following assets.

	£
Freehold trading premises	500,000
Goodwill	200,000
Investments	100,000
Stock and work in progress	150,000
Debtors	80,000
Cash	170,000
	<u>1,200,000</u>

Calculate John's Capital Gains Tax on disposal of the shares in John Ltd and base cost of the shares for his son.

5 Private Residence Relief

- 5.1** The sale of an individual's only or main private residence is covered by Private Residence Relief (PRR). The relief also covers grounds up to half a hectare.

The relief is available in full if the taxpayer occupied the property throughout the entire period of ownership. Where occupation has been for only part of the period, a proportion of the gain is covered by the relief

$$\text{Gain} \times \frac{\text{Period of occupation}}{\text{Period of ownership}}$$

- 5.2** There are however periods of absence which are deemed to be full occupation
- (a) Last 9 months - if the property was the individual's main residence at some point in time
 - (b) Any periods during which the individual was required by his employment to live abroad
 - (c) Any period up to four years during which the individual is required to live elsewhere in the UK due to employment or self employment
 - (d) Up to three years for any reason.

Points (b – d) must be preceded and followed by periods of actual occupation, but for points (b – c) if the individual could not reoccupy due to the terms of employment requiring them to work elsewhere, by concession, the condition of actual occupation following the period of absence is not applied.

EXAMPLE 11

David bought a house on 1 April 1996 for £10,000. He lived in it until 30 June 1996. He worked abroad for 2 years and then moved back into the house on his return on 1 July 1998. He lived in the house until 31 December 2004 before leaving to live and work elsewhere in UK. David did not return to the house and the house was sold on 30 June 2021 for £150,000.

Calculate the chargeable gain arising.

5.3 Business use

Where part of a residence is used exclusively for business purposes throughout the period of ownership, the gain in relation to that part is not covered by relief.

The last 9 months rule does not apply to that part unless the business part was at some time used as part of the only or main residence.

5.4 Letting relief

Letting relief is available to cover any gain not covered by PRR if part of the property is rented out while the remaining part is being occupied by the taxpayer

Letting relief is the lower of:

- » PRR relief given
- » £40,000
- » gain attributable to letting

EXAMPLE 12

Dora Key bought a three-storey house on 1 November 2010 for £160,000. She occupied the whole of the house until 1 May 2016 when she let out the top floor to a tenant up to when she sold the house for £420,000 on 1 May 2021.

Calculate the chargeable gain arising.

You should now review the following part of the ACCA Finance Act 2021 technical article written by the TX-UK examining team: Capital Gains Tax section from Business Asset Disposal Relief and work Examples 30 - 33 - please note that reference to “entrepreneurs’” relief in answer to Example 31 should refer to “business asset disposal relief”.

You may now attempt Practice Questions 34 to 37