

## Explanatory Note

# Amendments 149 to 151 to Clause 82 and Schedules 11 and 12: Reduction in rate of capital gains tax

## Summary

1. This clause and schedules reduce the basic rate of capital gains tax (CGT) from 18% to 10%, and the 28% rate to 20%, on most gains made by individuals, trustees and personal representatives. Gains accruing on the disposal of interests in residential properties that do not qualify for private residence relief, and gains arising in respect of carried interest, remain subject to the 18% and 28% rates. ATED-related gains also remain subject to the 28% rate.
2. The amendments introduce a comprehensive definition of "carried interest gains" which remain taxable at the upper rates. The term includes gains which are treated as accruing when carried interest arises, as well as gains which actually accrue and which form part of the recipient's carried interest. Gains which correspond to those receivable by investors in a scheme are excluded.
3. These changes all take effect from 6 April 2016.

## Details of the amendments

4. **Amendment 150** introduces the concept of a "carried interest gain" as one of the three types of upper rate gain which remain subject to the 18% and 28% CGT rates
5. **Amendment 151** inserts a definition of "carried interest gains" to complement the change made by amendment 149. The first part of the definition captures gains which are treated as accruing when carried interest arises under arrangements which involve at least one partnership. The second part of the definition captures gains which accrue as a result of carried interest arising under arrangements which do not involve a partnership. The amount of the gain may be the amount of the carried interest, or it may be computed by reference to the amount of the carried interest. If the carried interest in question is in the nature either of a repayment of the whole or part of a co-investment, or of a return on a co-investment, then the resulting gain will not be a carried interest gain.

## Background note

6. Since June 2010 CGT has been charged at the following rates:
  - 10% to the extent that the chargeable gains qualify for entrepreneurs' relief
  - 18% where a person is a lower rate taxpayer
  - 28% to the extent that the person is a higher rate taxpayer or the gains exceed the unused part of the individual's basic rate band
  - 28% for trustees and personal representatives
  - 28% for ATED-related chargeable gains accruing to any person (principally companies) so chargeable
  - 20% for NRCGT gains accruing to a company on the disposal of UK residential property
7. A key government objective is to create a strong enterprise and investment culture. Cutting the rates of CGT to 10% and 20%, from 18% and 28%, for most assets is intended to incentivise individuals to provide the capital companies need to expand and create jobs. The retention of the 28% and 18% rates for residential property is intended to provide an incentive for individuals to invest in companies over property.