HM Revenue
& Customs

Capital gains tax: exemption for certain wasting assets

Who is likely to be affected?

Persons disposing of a wasting asset that was previously loaned to a third party business.

General description of the measure

The measure makes clear that to qualify for the capital gains tax (CGT) exemption for gains accruing on the disposal of certain wasting assets, an asset must have been used in the business of the person disposing of it.

Policy objective

The measure improves the fairness of the tax system. By ensuring that an asset must have been used in the owner's business to be eligible for the exemption on its later disposal, it prevents assets, such as works of art, being loaned to and used by another party for a period of time for business purposes simply to qualify for the exemption.

Background to the measure

Certain wasting assets are exempt from CGT. This includes gains which arise from the disposal of assets used as plant or machinery and where capital allowances could not be claimed.

In a recent court case it was successfully argued that the gain on the disposal of an asset that had appreciated in value was exempt from CGT. This was because the asset had been lent by the owner, before it was sold, to another party to use as plant in its business. It did not matter that the asset had never been used as plant by the owner.

This decision means that it would be relatively easy for other parties to set up similar arrangements to avoid CGT.

This measure was announced at Budget 2015.

Detailed proposal

Operative date

The changes will have effect for gains accruing on and after 1 April 2015 for corporation tax purposes and 6 April 2015 for CGT purposes.

Current law

Section 44 of the Taxation of Chargeable Gains Act 1992 (TCGA) defines a wasting asset as an asset with a predictable life not exceeding 50 years. It brings into this definition all plant and machinery.

Section 45 of TCGA provides that where a wasting asset is tangible movable property any disposal proceeds are exempt from CGT. It excludes from this assets that are plant or machinery that have been used by a business which has, or could have, claimed capital allowances.

Proposed revisions

Legislation will be introduced in Finance Bill 2015 to amend section 45 TCGA to make clear that the wasting asset exemption applies only if the person selling the asset has used it as plant in their own business.

Summary of impacts

<table>
<tr><td rowspan="3">Exchequer impact (£m)</td><td>2015-16</td><td>2016-17</td><td>2017-18</td><td>2018-19</td><td>2019-20</td></tr>
<tr><td>nil</td><td>negligible</td><td>negligible</td><td>negligible</td><td>negligible</td></tr>
<tr><td colspan="5">This measure is expected to have a negligible impact on the Exchequer. This measure supports the Exchequer in its commitment to protect revenue.</td></tr>
<tr><td>Economic impact</td><td colspan="5">This measure is not expected to have any significant economic impacts.</td></tr>
<tr><td>Impact on individuals, households and families</td><td colspan="5">This measure will not have a significant impact on individuals and households. It is designed to impact only on those individuals and businesses that design arrangements to exploit the wasting assets exemption.

The measure is not expected to impact on family formation, stability or breakdown.</td></tr>
<tr><td>Equalities impacts</td><td colspan="5">This measure is not expected to have an impact on any protected equality group different to any other group.</td></tr>
<tr><td>Impact on business including civil society organisations</td><td colspan="5">This measure is expected to have a negligible impact on businesses and civil society organisations. It will only impact on those persons who wish to dispose of assets, such as works of art, and where capital allowances were not available. It will prevent such persons entering into arrangements to loan the asset to a business to use as plant in their business simply to exploit the CGT exemption for certain wasting assets. The measure will not impact on a business, such as an open house business, that disposes of qualifying wasting assets that have been used by the business but have not qualified for capital allowances.</td></tr>
<tr><td>Operational impact (£m) (HMRC or other)</td><td colspan="5">There will be no significant impact on HM Revenue & Customs.</td></tr>
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Other impacts	Small and micro business assessment: this measure applies to gains arising from the disposal of assets where arrangements have been entered into to avoid CGT. Generally such arrangements will be entered into by private individuals. Consequently it is expected that the impact on small and micro businesses will be negligible. Other impacts have been considered and none have been identified.

Monitoring and evaluation

The measure will be monitored through disclosures of new avoidance schemes to circumvent the measure, and through communication with taxpayers and practitioners affected by the measure.

Further advice

If you have any questions about this change, please contact Nick Williams on 03000 585660 (email: nicholas.williams@hmrc.gsi.gov.uk).