

Capital gains tax: restricting entrepreneurs' relief on associated disposals

Who is likely to be affected?

Individuals and members of partnerships who sell personal assets used in a business but do not, at the same time, dispose of a significant holding of shares in the company carrying on the business or of a significant share in the assets of the partnership carrying on the business.

General description of the measure

This measure will mean that entrepreneurs' relief (ER) will not be available to reduce capital gains tax (CGT) on gains which accrue on personal assets used in a business carried on by a company or a partnership, unless they are disposed of in connection with a disposal of at least a 5% shareholding in the company, or a 5% share in the partnership assets.

Policy objective

ER does not usually apply to the disposal of personal assets used in a company's or a partnership's business. However, 'associated disposal' rules allow ER on these assets when the disposal is associated with a partial or full withdrawal from the business or company. There has been no minimum requirement as to the size of this withdrawal and therefore some people are using these rules to benefit from ER on personal assets when they are not making a meaningful withdrawal.

This measure ensures that at least a 5% stake in the business must be disposed of by a claimant in order to benefit from ER on an associated disposal. This is in line with the policy intention to encourage someone who is significantly withdrawing from a business to sell the personal assets being used to the buyer along with the business.

Background to the measure

This measure was announced at Budget 2015.

Detailed proposal

Operative date

This measure will affect disposals on and after 18 March 2015.

Current law

The ER provisions are at sections 169H to 169S of the Taxation of Chargeable Gains Act 1992 (TCGA). ER reduces the rate of CGT on the disposal of assets to 10% from the standard 18% or 28%. Section 169K provides special rules which allow ER on assets used in a business but owned privately by a participator (a shareholder or partner) in the business, providing those assets are disposed of as part of a withdrawal for participation in the business.

Proposed revisions

Legislation will be introduced in Finance Bill 2015 to amend TCGA to ensure that in order for a disposal of a privately-owned asset to qualify for ER, the claimant must reduce their participation in the business by also disposing of a minimum 5% of the shares of the company carrying on the business, or (where the business is carried on in partnership) of a minimum 5% share in the assets of the partnership carrying on the business.

Summary of impacts

Exchequer impact (£m)	2015-16	2016-17	2017-18	2018-19	2019-20
	negligible	+45	+45	+45	+45
	These figures are set out in Table 2.1 of Budget 2015 as 'Capital gains tax: contrived ownership arrangements' and have been certified by the Office for Budget Responsibility. They represent the combined Exchequer impact of 'Capital gains tax: entrepreneurs' relief, joint ventures and partnerships' and 'Capital gains tax: restricting entrepreneurs' relief on associated disposals'. More details can be found in the policy costings document published alongside Budget 2015.				
Economic impact	This measure is not expected to have any significant economic impacts.				
Impact on individuals, households and families	<p>Individuals who are either partners in a firm or shareholders in a company may be affected if they dispose of assets which they own and which are used in their firm's or company's business but do not make a meaningful withdrawal from the business.</p> <p>This measure is not expected to impact on family formation, stability or breakdown.</p>				
Equalities impacts	This measure is not expected to have a significant impact on those with legally protected characteristics. Those affected will broadly reflect the composition of ER claimants.				
Impact on business including civil society organisations	This measure affects disposals made by individuals of assets held in their personal capacity. There is therefore no direct impact on businesses.				
Operational impact (£m) (HMRC or other)	There will be a negligible operational impact on HM Revenue & Customs.				
Other impacts	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 affected taxpayers and practitioners.

Further advice

If you have any questions about this change, please contact Rob Clay on 03000 570649 (email: rob.clay@hmrc.gsi.gov.uk).