



Newsletter I/2007

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UK CAPITAL GAINS TAX REFORM for 2008

Dear readers,

With this short newsletter I would like to draw your attention to indications of an important tax change in the UK tax system.

If plans go ahead UK Capital Gains Tax (CGT) could fall from presently 40% to only 18% affecting also sales of holiday homes of UK nationals in Spain. If approved the measure could take effect on the 06th of April 2008.

Following I would like to give a brief outline the present discussion.

(*) General description of tax changes

Legislation is planned to be introduced in the Finance Bill 2008 to give effect to a new single rate of charge to CGT at 18%.

A number of changes to simplify the capital gains tax regime will be made, including:

- The withdrawal of taper relief;
- The withdrawal of indexation allowance;
- The abolition of the 'kink test' for assets held at 31 March 1982;
- Abolition of halving relief; and
- Simplification of the share identification rules.

Who is likely to be affected?

1. Individuals, trustees and personal representatives with a gain which is chargeable to capital gains tax (CGT).

Companies that are liable to corporation tax in respect of their chargeable gains are not affected by any of these changes.

2. The Annual Exempt Amount (AEA) will remain. The current level for 2007-08 is £9,200 for individuals and £4,600 for some trustees.

The AEA for 2008-09 will be announced at Budget 2008. Other CGT reliefs continue to have effect.

Operative date

The measure will have effect for disposals made on or after 6th of April 2008.

The current CGT rules continue to apply for disposals made up to 5 April 2008.

Current law and proposed revisions

Section 4 of Taxation of Chargeable Gains Act 1992 (TCGA) provides that an individual is currently chargeable to CGT at the rates for income tax on savings income (10 per cent, 20 per cent or 40 per cent in the tax year 2007-08), treating his or her net chargeable gains (after deduction of allowable losses, taper relief, any other relevant reliefs, and the AEA) as

(*) Above information has been extracted from the web site of the UK HM Homes and Customs office.

(for further information please visit: www.hmrc.gov.uk)

FAQ

Does the measure affect Spanish properties?

Yes. Any capital gain made during the sale of a Spanish property by a UK national is to be taxed in the UK. For the gains made taxes my presently reach as high as 40%. This may change from 2008.

I would like to sell my property now. Can I take advantage of the measure even if I sign contracts in 2007 to sell my Spanish property?

Yes. However, careful drafting of the relevant documents to be sign is necessary. You should contact a local tax lawyer to not to lose this tax advantages nor the proposed sales opportunity.

Is there anything I should do in case I purchase a Spanish property?

No. The measure comes into effect automatically. There are no steps to be taken by you.

However, in order to avoid Spanish Wealth Tax and Inheritance Tax it is advisable to plan your purchase with a local tax lawyer.

If I sell properties in Spain, I am obliged to pay Spanish CGT at a rate of 18%. Do I need to pay the same rate in the UK again?

Not necessarily. Due to the present Double Taxation Treaty in place between Spain and the UK, your Spanish CGT could be offset to 100% against your UK tax liability. You should contact with a local tax lawyer in order to receive further information on this issue.

What happens if I am holding my Spanish property in a Spanish company? Would a sale of shares also be taxed at 18% in the UK?

Yes. A UK CGT liability would arise from the sale. However, the Double Taxation Treaty in place could alleviate this bur-

den up to 100%. You should contact with a local tax lawyer in order to receive further information on this issue.

I am holding my Spanish property in an offshore company? Am I affected by the measure?

No. However, a tax liability may arise in case you dispose of the off shore company. You should contact with a local tax lawyer in order to receive further information on this issue.

For further information on this topic please contact with:

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