

ENTREPRENEURS' RELIEF DRAFT LEGISLATION

In the Pre-Budget Report last October Chancellor Alistair Darling announced a series of changes to the capital gains tax (CGT) regime for individuals and trustees. These changes included the abolition of taper relief and indexation relief and the introduction of a single rate of CGT of 18%. The changes take effect from 6 April 2008.

On 24 January 2008, in response to pressure from the business community, the Chancellor announced a new 'Entrepreneurs' Relief'. The first £1m of gains qualifying for relief will be charged at an effective rate of 10%.

Gains in excess of £1m will be charged at 18%. An individual will be able to make more than one claim for relief, up to a lifetime total of £1m of gains.

The new relief is similar to Retirement Relief, which was phased out with the introduction of taper relief, but the new rules are designed to be simpler:

- there will be no minimum age limit
- relief will be available where the relevant conditions are met for a period of one year ending with the disposal / cessation.

The relief may be available to gains arising on the disposal of:

- the whole, or part, of a trading business that is carried on by the individual, either alone or in partnership
- assets used in a business which has ceased
- shares in a trading company, or holding company of a trading group, provided that broadly the individual owns at least 5% of the voting rights in the company and is an officer or employee of the company
- assets used in a partnership or by a company but owned by an individual if the assets disposed of are 'associated' with a disposal of shares or an interest in partnership assets. The individual must make the disposal as part of their withdrawal from participation in the partnership or the company
- certain disposals by trustees of business assets and company shares where a 'qualifying beneficiary' has a qualifying interest in the business / shares.

A trading business includes professions but only includes a property business if it is a 'furnished holiday lettings' business.

A trading company will have the same meaning as currently applies for taper relief.

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HMRC have issued the draft legislation together with draft explanatory notes and frequently asked questions.

This is a complex area and if you have any queries or concerns please do get in touch.

Internet link: [HMRC guidance](#)