# Farmers averaging and the higher rate of CGT via loss claims

**For 2010/11 and subsequent tax years there is a specific new provision.**

The provision is: whereby gains made by a taxpayer are subject to Capital Gains Tax (CGT) at different rates, allowable capital losses and the CGT annual exemption may be deducted from those gains in a manner most beneficial for the taxpayer (Finance (No 2) Act 2010 para 3, schedule 1 inserting 4B Taxation of Chargeable Gains Act 1992 (TCGA 1992).

For those taxpayers reluctant to pay the increased 28% as opposed to 18% rate there is scope for using 'allowable capital losses' via the routes of selling assets to realise losses and/or making negligible value claims. Tax planners need to look at CGT loss realisation leading to 5 April 2012.

When sorting out historic CGT computations the specific transfer provisions under Finance (No 2) Act 2010 para 18, schedule 1 means that for 2010/11 when determining whether there is any unused basic rate band it is essential to ignore gains accruing PRIOR to 23 June 2010 which will no doubt prove a problem in the build up to the filing deadline of 31 January 2012.

For the farmer/landowner this is of particular concern as there are fluctuating income profits/losses which can be averaged and this will impact on the use of the basic rate band for disposals that do not qualify for the CGT business reliefs.

## Action Plan

- When carrying out farmers averaging claims it is essential to check the impact on any actual and potential capital gains tax liability;
- Look to realising current tax year losses to protect the utilisation of the lower CGT rate.

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