



Julie Butler, managing partner of tax accountants Butler & Co, on what the new capital gains tax rules will mean for businesses

Taxing situation



Is it correct that business assets should be sold before 5 April 2008 to achieve the 10% rate of tax before it disappears along with indexation?

Firstly, "death is not a chargeable event", i.e. there is no capital gains tax (CGT) on death and CGT only occurs on disposals so unless there is a plan to sell the asset there is perhaps not the need for the "unseemly scrabble" by 5 April 2008. Secondly, the Darling u-turn has introduced entrepreneurs' relief which will deliver a 10% rate for up to the first £1 million of lifetime capital gains.

The answer is to review all assets held to see what should be carried out by the deadline and to look at long-term planning.

With the loss of indexation involved with the CGT reform is it possible to "preserve indexation", in other words to not lose indexation by an inter-spouse transfer before 5 April 2008?

Indexation was removed in 1998 so such planning would only be applicable to assets before 1998.

Yes, the inter-spouse transfer does preserve

indexation under section 56(2) of the Taxation of Chargeable Gains Act. Fundamentally, the disposal between husband and wife is a no gain or no loss disposal and to achieve this the indexation has to be added – otherwise a loss would accrue to the donor.

The only fly in the ointment is March 1982 values and there has been some debate about this. This is to do with the interpretation of Schedule 2 TCGA.

The summary is that for business assets which have been owned 'before' 1998 and for which a disposal is planned this is something that should be looked at urgently.

Does the CGT reform apply to assets held in a limited company?

Business asset taper relief (BATR) was never allowed for assets held in the company so effectively there has been no change. However, BATR did apply to qualifying shares in a limited company.

The entrepreneurs' relief which is restricted to £1 million is also available to all employees and company directors who invest a material stake in a qualifying company.

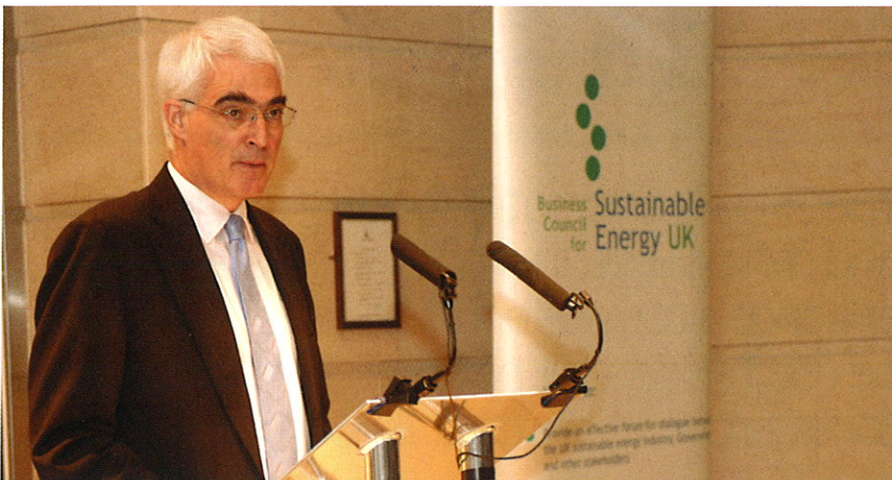
Are rollover relief and holdover relief still available despite the loss of business asset taper relief?

Yes, rollover relief is still available. There is also targeted support for small businesses through enterprise investment scheme (EIS) and venture capital trusts (VCT). With the entrepreneurs' relief being cumulative it can be claimed on multiple occasions and planning will be involved on instances to rollover and times to claim the relief. Holdover relief is also available for family transfers of business assets.

Is it correct that the new simplified 18% rate will present an improved rate of capital gains tax for many taxpayers?

Yes. Non-business assets were taxed at a higher rate of tax than the new 18% rate often, if not held for long, by as high a rate as 40%.

This improved rate of tax does present opportunities to restructure investment portfolios. It is anticipated that after 5 April 2008 there will be lots of activity in redesigning the range and mix of investments held. ●



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