DIXON WILSON
CHARTERED ACCOUNTANTS

Capital Gains Tax Changes

21 March 2019

BACKGROUND

HMRC have recently introduced several revisions to the capital gains tax (CGT) rules. An outline of the main changes is below.

PAYMENT WINDOW FOR RESIDENTIAL PROPERTY GAINS

UK resident taxpayers have, historically, reported the sale of UK-situs residential property through a Self Assessment tax return, and then paid any tax due by 31 January following the end of the tax year of sale.

Under new rules, vendors will in some cases need to make a return to HMRC and pay any CGT arising within 30 days of the date of completion. The new payment and reporting deadlines apply to individuals, trustees and personal representatives.

For disposals by UK residents, a return will not be required where the gain on the disposal is not chargeable to CGT, for example where Private Residence Relief reduces the gain to less than the annual exemption or where sufficient capital losses are available to offset.

For non-UK residents, whilst they are already required to report gains within 30 days of sale, the provisions will be extended to payment of the tax arising and will apply to all direct and indirect disposals of UK land and property (including both commercial and residential), whether or not a capital gain arises.

The new rules take effect for UK residents from 6 April 2020 and for non-UK residents from 6 April 2019.

Reasonable estimates are permitted in respect of valuations needed to calculate the gain, if it is not possible to obtain the actual figures within the 30-day window.

ENTREPRENEURS' RELIEF (ER)

Currently, ER applies to sales of shareholdings of more than 5% in certain unquoted trading companies, where the qualifying conditions have been met for 12 months to the date of sale. Under the new rules, the minimum period during which the requirements must be met will increase to 24 months.

There are also two new tests, at least one of which must be met in order to qualify for relief. The shareholder must be entitled to either:

(a) 5% percent of the dividends and assets available to equity holders if the company was wound up; or
(b) 5% of the sale proceeds due to ordinary shareholders on a theoretical disposal of the entire company.

Finally, there are new rules designed to assist those individuals whose shareholdings are diluted through a commercial issue of new equity. Those whose shares would have qualified for ER prior to the dilution may opt to pay tax by crystallising a gain on a notional disposal. The notional disposal is calculated without any discount for minority ownership. Any gain arising can then be deferred until the eventual sale, which avoids a 'dry' tax charge, although the other qualifying conditions would need to continue to be met until the future sale in order for ER to apply.

All of these new provisions take effect in relation to disposals from 6 April 2019 onwards.

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