



# CAPITAL GAINS TAX

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A GUIDE FOR CONTRACTORS

# INTRODUCTION

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## CAPITAL GAINS TAX

### CAPITAL GAINS

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#### A GUIDE FOR CONTRACTORS

A capital gain (or loss) arises when there is a chargeable disposal of a chargeable asset by a chargeable person. However, this very simple definition which perhaps plays down what can be a very complex area of tax law.

In this guide we will be exploring:

1. Who is a chargeable person?
2. What is a chargeable asset?
3. What is a chargeable disposal?
4. How is CGT calculated?
5. Can the gain be deferred or exempted?
6. Reporting and paying CGT



## WHO IS A CHARGEABLE PERSON?

UK RESIDENT INDIVIDUALS, TRUSTS, AND COMPANIES ARE ALL WITHIN THE SCOPE OF CAPITAL GAINS TAX (CGT)

Although, companies pay corporation tax on any gain rather than CGT. Generally non-UK tax residents do not pay CGT regardless of where the asset is situated. However there is an exemption to that rule for transactions in UK land and buildings, and the disposal of shares in UK property rich companies.

## WHAT IS A CHARGEABLE ASSET?

MOST ASSETS EXCEPT STERLING CASH ARE CHARGEABLE ASSETS FOR CGT PURPOSES.

The most common type of assets we see held are shares, land and buildings, and cryptocurrency. There are however several specific exemptions in the legislation, of which the most useful to know about are:-



CARS



WASTING CHATTELS (tangible moveable property with a useful life expectancy of less than 50 years)



FOREIGN CURRENCY ACQUIRED FOR PERSONAL EXPENDITURE



GILTS



SHARES HELD IN ISA, VCT, EIS OR SEIS WRAPPERS as long as certain conditions are met

## WHAT IS A CHARGEABLE DISPOSAL?

A CHARGEABLE DISPOSAL OCCURS WHEN A CHARGEABLE ASSET IS SOLD, GIFTED, SWAPPED, OR LOST OR DESTROYED WITH COMPENSATION RECEIVED.

Death is not a chargeable disposal event, however the probate value becomes the new base cost of the asset for the purposes of calculating any gain on future disposal.

A transfer between husband and wife, or civil partners, is a chargeable disposal but is treated as taking place at no gain/no loss. This means that such transfers do not trigger and immediate CGT charge. This can be a useful tax planning tool to utilise any unused annual exemption or lower tax bands.

## HOW IS CGT CALCULATED?

A GAIN OR LOSS IS CALCULATED BY TAKING THE PROCEEDS RECEIVED FOR THE DISPOSAL, AND DEDUCTING THE COST OF ACQUIRING THE ASSET (THE BASE COST).

In calculating these two figures you can include the incidental costs of the disposal such as legal and valuation fees, and the associated costs of acquisition such as stamp duty and commission. The cost of any enhancement to the asset can also be included as long as the expenditure is reflected in the state or nature of the asset at disposal. For instance, if you built an extension to a rental property the cost of the work could be reflected in the base cost of the property when calculating any gain. However, if you were to demolish the extension and therefore it was no longer part of the property when you sold it, then the cost of building it could not be taken into account in the CGT calculation.

Any capital losses must be used against any capital gains made in the same year. Any remaining losses can then be carried forward to future years. Individuals also have an annual exemption each year which will mean that there is no CGT to pay if the total chargeable gains are below this amount. For 2022/23 the annual exemption is £12,300. Basic rate taxpayers pay tax of 10% on any gains. Higher and additional rate taxpayers suffer CGT at 20%. Where residential property is disposed of then it is subject to CGT at 18% and 28% respectively.

A reduced rate of CGT of 10% is available where the disposal is eligible to claim Business Asset Disposal Relief or Investors Relief, but there are lifetime limits that once exceeded mean that the reduced rate can no longer apply.

## CAN THE GAIN BE DEFERRED OR EXEMPTED?

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WHERE A BUSINESS ASSET IS DISPOSED OF THEN IT IS POSSIBLE FOR THE DONOR AND THE DONEE TO MAKE A JOINT ELECTION TO CLAIM GIFT RELIEF ON THE TRANSFER.

This has the effect of rolling over the gain against the base cost of the asset when later disposed of by the new owner, in effect shifting any gain on to the person in receipt of the gift.

Where you dispose of land and building, or plant and machinery used a business, then you may be eligible to claim roll over relief if you reinvest the proceeds into certain replacement assets for use in the business. This will have the effect of delaying all or part of the gain until the replacement asset is sold.

Whilst the above deferral reliefs are useful, they are of course restricted to situations where no consideration is received or where proceeds are being reinvested in a business. A more flexible deferral relief that is available to be used against gains on the disposal of any asset is EIS, SEIS, and Social Enterprise Reinvestment Relief. Where the proceeds of a disposal are used to invest in shares of any of these then the gain can be frozen until those shares are disposed of, at which point the earlier gain will also crystallise.

Principle Private Residence Relief will exempt any capital gain on the disposal of a residential property for the period that you lived in it if it was your only or main residence, plus the final 9 months regardless as long as it was your main home at some point. Certain periods of absence may also be treated as deemed occupancy, such as when you have been abroad by reason of your employment.

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## REPORTING & PAYING CTG

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WHERE YOU COMPLETE A TAX RETURN, ANY GAIN OR LOSS CAN BE REPORTED ON THAT WITHIN THE NORMAL SELF-ASSESSMENT TIME LIMITS.

Any tax due will be payable by 31 January following the end of the tax year the gain arises in.

In addition, any gain from UK residential property must be reported to HMRC and a provisional payment of the tax made within 60 days of the date of disposal. The gain must also be reported on the annual tax return.

For those that do not complete a self-assessment, a real time transaction return can be submitted using the government gateway. This can be made at any time before the 31 December following the end of the tax year that the disposal was made in. HMRC will then advise how the tax should be paid by the due date of the following 31 January.

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## ABOUT US

WHO ARE WE?

MEET OUR TEAM OF INDUSTRY LEADING EXPERTS COMPOSED OF AWARD WINNING TAX AND LEGAL ADVISORS



**RHYS THOMAS**  
MANAGING DIRECTOR

Rhys' professional background began in the legal industry working on international contractual agreements and dispute resolution. Following this Rhys moved into the financial sector utilising his legal knowledge to perform alternative dispute resolution for the financial services industry.

Rhys now manages the WTT Group of companies and oversees the continued development and expansion of the organisation.



**TOM WALLACE**  
DIRECTOR OF TAX INVESTIGATIONS

Tom joined WTT in 2017 as a Director, setting policy and strategy for clients having their tax affairs enquired into, after a 20 year career with the Inland Revenue (now HMRC) primarily in tax investigations. As a qualified tax inspector he led teams across business segments from global household names to mid-size businesses and their wealthy directors. After joining the newly formed Complex Evasion team he investigated offshore structures and worked with parties such as the City of London Police Economic Crime Unit, providing a unique insight into tax compliance. He now also advises clients on ongoing tax and wealth planning needs, having qualified as a member of the Society of Trust and Estate Practitioners in 2021.

# Open.

# Honest.

# With Integrity.

WTT provides award-winning experienced tax advisers, legal experts and wealth professionals working together as a cohesive team. The breadth and depth of our expertise allows us to provide an all-round tailored service for contractors, entrepreneurs and companies alike.

**Open. Honest. With Integrity.**

## TO FIND OUT MORE....

FOR MORE INFORMATION OR TO DISCUSS ANY OF OUR SERVICES IN MORE DETAIL, CONTACT ONE OF OUR SPECIALISTS TODAY.

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### GOT SOME QUESTIONS?

If you have any queries or were wishing to discuss any of our services in more detail, our team of experts are always on hand to answer any questions you may have.

For a no obligation discussion about your options, or for advice on a particular matter, contact us on the details attached.



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