

Year-End Tax Planning -Capital taxes

(Lecture P1062 – 10.15 minutes)

Use your annual CGT exemption

The annual CGT exemption offers £11,300 of tax free gains and should be used wherever possible.

The share matching rules make it more difficult nowadays to bed & breakfast holdings, but if you have shares standing at a small gain that you do not wish to retain, consider selling these before 5 April to use the exemption. You can always buy them back after 31 days (if the price is right) and this will rebase your holding to current value.

Alternatively for shares you wish to retain, bed & breakfasting is effectively possible by one spouse or unmarried partner selling and the other buying them back (or by repurchasing the shares via an ISA or through your pension fund). Again this uplifts the CGT base cost for a future disposal.

Remember that spouses each have an annual exemption so this equates to £22,600 of tax-free gains. Also remember that assets can be swapped between spouses free of both CGT and IHT, thereby enabling gains to arise in the hands of whichever spouse either has an unused exemption or has capital losses to utilise.

Transfers between non-spousal partners do not have exemption with disposals taking place at market value. Whilst this could be prohibitive in terms of making transfers of assets standing at a gain, it does open up planning possibilities where one partner has assets standing at a loss. In this case a transfer to their unmarried partner could release that loss for use against any capital gains in the year without the asset leaving the family unit. There is no ring-fencing of the loss as unmarried couples are not “connected persons” for CGT purposes (unlike relatives and descendants).

Transfers between spouses take place on a no gain / no loss basis until the end of the tax year in which the couple separates. Once 5 April has passed, any transactions between the separated couple will take place at market value (resulting in capital gains which may not qualify for deferral relief). Therefore a planning window will close on 5 April in the year of separation. Couples who have separated in the tax year and who will be looking to transfer assets between them at some point as part of a financial settlement should therefore be advised to consider doing so before the tax year ends (if this is practical in the circumstances - sometimes it simply isn't).

Review your non-dom client base

Non-dom clients who became UK resident in the tax year 2003/04 and have been continuously UK resident since then will become deemed domiciled in the UK on 6 April 2018 (being UK resident in at least 15 of the preceding 20 tax years).

This will mean that:

- All income and gains will thereafter be taxed on an arising basis (use of the remittance basis will be denied); and
- All assets will be exposed to IHT (excluded property status for foreign assets will cease).

CGT rebasing of foreign assets will not be available (this being reserved only for those who became deemed dom in April 2017). However rebasing can be effectively achieved by selling foreign assets and buying back replacements before triggering deemed domicile (with the resulting gains sheltered by a remittance basis claim).

Alternatively gifting foreign assets to a trust before triggering deemed domicile would also rebase them for CGT (the resulting gains cannot then be remitted to the UK as no proceeds exist). Although the donor would continue to benefit from the trust, the new trust protection rules would shield the settlor from being taxed on trust income and gains until benefits are received.

Foreign assets can also be protected from IHT by transferring them to an excluded property trust before deemed domicile is triggered. Even if the settlor becomes deemed domiciled in the UK, the trust will retain its non-dom status and the foreign assets in the trust will remain excluded property. These assets can continue to be used and enjoyed by the settlor without being exposed to IHT. [With regard to the previous points, specialist advice should be sought before creating offshore trusts as care should be taken as to which legal jurisdiction should host the trust.]

Use your inheritance tax exemptions

These commonly go to waste but if you are interested in basic planning to reduce the value of your chargeable estate for IHT, there are some simple exemptions that can help.

Each individual has an annual exemption of £3,000 per tax year and any transfers within that limit are exempt from IHT. Any used exemption can be carried forward for one tax year giving potential for a couple to reduce their combined estates in 2017/18 by £12,000 without this being a transfer of value. The carry forward also means that this planning can be undertaken every other year. Regular use of this annual exemption can significantly reduce your estate over a prolonged period.

Small gifts are exempt up to £250 per donee per tax year, so cash gifts to any number of children or grandchildren can be made without IHT consequence. This can be effectively increased to £500 per donee by making the gift from a joint bank account. The donee must be an individual (and not a trust). A little care must be taken here as once the £250 limit is exceeded, the whole value of the gift is then treated as a transfer of value (not just the excess).

Perhaps the most valuable exemption in terms of significantly reducing the value of one's estate is the exemption for 'normal expenditure out of income'. This enables donors to make regular and habitual gifts out of their income completely free of IHT without monetary limit provided that the donor retains sufficient annual income to maintain his 'normal' standard of living.

'Normal' naturally varies from person to person, hence the potential for this exemption to be relatively open-ended. 'Habitual' means that some pattern of giving must be established. A one-off gift can qualify as long as this was intended to be the first in an on-going series.

This is an extremely valuable exemption for those with annual income in excess of their annual spend. This is a good time of year to assess that situation and plan accordingly.

Transferring excess income into a pension fund for one's minor children (or grandchildren) is particularly popular as not only is the gift outside the scope of IHT but the government will top up the contribution by 25%. Contributions are limited to £2,880 per annum (£3,600 gross) but small contributions at an early age allow the pension fund to grow exponentially over the beneficiary's lifetime.

Alternatively for those who prefer their children or grandchildren to be able to enjoy benefits before the ripe old age of 55, excess income could be deposited into a Junior ISA for a child. The annual donation limit is £4,128 and the money is locked in until age 18.

Finally...Review the time limits for claims

Many claims - particularly for CGT reliefs - have a 4 year time limit pegged by reference to the end of the tax year. Some claims for 2013/14 will therefore expire on 5 April 2018. Practitioners should therefore review their clients' tax returns for 2013/14 to make sure any claims made for that year are not outstanding.

Contributed by Steve Sanders