Capital gains tax—Entrepreneurs' relief
Tax consultancy services

Tax savings of up to £1.8m for business owners

Entrepreneurs' relief ('ER') is a relief from capital gains tax ('CGT') for business owners. The relief broadly enables you to pay CGT at a rate of 10% when you sell your business. This compares favourably with standard CGT rates of 18% or 28%.

In recent years the value of ER to business owners has steadily increased. Today the amount of total lifetime gains of an individual attracting the relief is £10m. The maximum CGT saving as a result of ER is therefore the difference between paying tax on £10m at 28% and paying the tax at a rate of 10% - ie a potential saving of £1.8m.

Qualifying for Entrepreneurs' relief

ER is broadly available where there is a disposal of a business or part of a business. The relief may also be available in respect of shares in a trading company. Certain other disposals of assets used in the business or by the company may also qualify for the relief.

ER is available to sole traders, partners and company shareholders. It may also be available in certain circumstances to trustees by reference to the beneficiaries of the trust. The relief is not available to a company in its own right.

In order to qualify for the relief, the assets being sold must usually have been owned for a period of at least one year.

In the case of shares in a company, the individual selling the shares must be an officer or employee of the company, hold at least 5% of the ordinary share capital and be entitled to at least 5% of the votes. These conditions must have been met for at least one year leading up to the date of the disposal.

Avoiding pitfalls

There are several potential pitfalls that can catch out the unwary and cause the relief to be lost. A selection of these is described as follows:

If your company has a significant amount of non-trading activity or assets, its shares may not qualify for the relief. HMRC usually take 'significant' to mean 20% - judged by a mixture of turnover, net assets, profit and time spent by directors and employees.

Where part of a business is being sold there can be a very fine dividing line between what actually constitutes the disposal of part of a business and what is merely a disposal of assets from within a continuing business. ER is denied in the latter case.

Shares in a company can be transferred to a spouse to utilise their CGT annual exemption. However, where gains exceed the annual exempt amount, the overall CGT position could be made worse because the spouse may not qualify for ER in their own right. This is because the spouse needs to be an officer or employee of the company and have at least 5% of the shares for at least one year before the sale.

Editor:
Colin Fish
Partner
Norwich Office
t: 01603 663300
e: c.fish@lovewell-blake.co.uk

For further information and a free consultation please contact:

Aylsham: Lovewell Blake LLP, 1a and 1b Cawston Road, Aylsham NR11 6BX
t: 01263 732151

Bury St Edmunds: Lovewell Blake LLP, First Floor Suite, 2 Hillside Business Park, Bury St Edmunds IP32 7EA
t: 01284 337070

Ely: Lovewell Blake LLP, 11 Lynn Road, Ely CB7 4EG
t: 01353 662447

Great Yarmouth: Lovewell Blake LLP, Sixty Six, North Quay, Great Yarmouth NR30 1HE
t: 01493 335100

Halesworth: Lovewell Blake LLP, The Wherry, Quay Street, Halesworth IP19 8ET
t: 01986 873163

Lowestoft: Lovewell Blake LLP, Excelsior House, 9 Quay View Business Park, Barnards Way, Lowestoft NR32 2HD
t: 01502 563921

Norwich: Lovewell Blake LLP, Bankside 300, Peachman Way, Broadland Business Park, Norwich NR7 0LB
t: 01603 663300

Thetford: Lovewell Blake LLP, The Gables, Old Market Street, Thetford IP24 2EN
t: 01842 755032

www.lovewell-blake.co.uk

@LovewellBlake

WE ARE AN INDEPENDENT MEMBER OF THE GLOBAL ADVISORY AND ACCOUNTING NETWORK