

# Your Legal Questions

**Stephen Soper**  
Partner & Solicitor



## **CGT Reliefs for individual business owners Part 2 -** **Entrepreneurs' Relief ('ER')**

### **Q. What is Entrepreneurs' Relief?**

A. ER reduces the amount of the capital gain to be taxed on a disposal of certain business assets.

### **Q. What can I claim relief on?**

A. There has to be a "qualifying business disposal". Conditions vary depending on the type of interest being disposed but broadly:

#### **Sole trader or partnership interests**

There must be a disposal of the whole or a distinct part of a business as a going concern or the sale of its assets following the business ceasing to trade. The owner must have owned the business (or the part being sold) for at least one year. In the case of disposals following cessation of trading the owner must have owned the business for one year prior to cessation and the disposal must take place within three years of that cessation.

#### **Company shares**

A disposal of company shares qualifies if the company is a trading (not investment) company and the owner holds at least 5% of the voting shares and is an employee or director of the company. Rules about the period of ownership and cessation of trading apply as above.

### **Q. What is the amount of the relief?**

A. For disposals since 22nd June 2010 the first £5,000,000 of the chargeable gain will be reduced by a two stage process:

- (a) reducing the gain by any losses made on the sale of any asset forming part of the business disposal
- (b) any gain left after (a) above is reduced by 4/9 and the net amount is charged at the individuals marginal rate of tax (28% for higher tax payers and 18% for basic rate tax payers).

ER only applies to the first £5,000,000 of gains so any gains over that are taxed in full. The £5,000,000 cap is a lifetime limit so that any unused relief can be applied to gains arising on later disposals until the relief has been exhausted.

*Stephen Soper is a Partner and Solicitor in the Commercial and Property Department of Powells Solicitors*

**Direct dial 01934 637915**  
**soper@powellslaw.com**