

Your Legal Questions

Stephen Soper
Partner & Solicitor



CGT Reliefs for individual business owners Part 6

This week we consider Hold-over relief ("HOR").

Q. What is hold-over relief?

A. HOR is available to an individual ("Donor") who disposes of "business assets" by way of gift. HOR acts to postpone any tax liability. The relief allows business assets to be given away without a tax charge falling on the Donor who would not otherwise have the sale proceeds to fund the tax.

Q. What conditions apply to the relief?

A. It applies to gifts or on the gift element of a sale at undervalue (i.e. where a full price is not paid). It only applies to "business" assets which include:

- (i) assets used in the Donor's trade;
- (ii) shares in an unlisted trading company;
- (iii) shares in a listed trading company providing the Donor owns at least 5% of the voting shares;
- (iv) assets owned by the Donor but used by such a listed company.

Q. Who must elect to apply the relief?

A. Both the Donor and the recipient of the gift ("Donee") must elect as the Donee will effectively assume liability for the CGT which eventually arises on the gift.

Q. How does the relief work?

A. This is best demonstrated by an example: F gives D, his son, the family business when its assets are worth £100,000 and the total gains on those assets are £20,000. 18 months later D sells the business for £110,000 (he makes no other disposals in the same tax year).

F pays no CGT on the disposal to D.

F and D elect to hold-over F's gain on the disposal so that D's adjusted acquisition costs are £80,000 (£100,000 less £20,000). D's annual exemption cannot be deducted from the held-over gain.

On the sale of the business by D his gain is:

Sale price	£110,000
Less:	
Adjusted acquisition costs	£ 80,000
Gain	£ 30,000

D's annual exemption for the tax year of the sale can be used to reduce the gain.

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

Direct dial 01934 637915
soper@powellslaw.com