



**Response by TISA: Office of Tax Simplification (OTS) – Capital Gains Tax (CGT) - Technical Detail and Practical Operation.**

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## About TISA

**The Investing and Saving Alliance (TISA)** is a unique, rapidly growing membership organisation for UK financial services.

**Our ambition is to improve the financial wellbeing of all UK consumers.** We do this by focusing the convening the power of our broad industry membership base around the key issues to deliver practical solutions and devise innovative, evidence-based strategic proposals for government, policy makers and regulators that address major consumer issues.

TISA membership is representative of **all sectors of the financial services industry**. We have **over 200-member firms involved in the supply and distribution of savings, investment products and associated services**, including the UK's major investment managers, retail banks, online platforms, insurance companies, pension providers, distributors, building societies, wealth managers, third party administrators, Fintech businesses, financial consultants, financial advisers, industry infrastructure providers and stockbrokers.

As consumers, the financial services industry and the economy react to and recover from the effects of the pandemic, the importance of the three key pillars of work that TISA prioritises has never been more apparent:

- **Strategic policy initiatives that influence policymakers** regarding the financial wellbeing of UK consumers & thereby enhancing the environment within which the industry operates in the key areas of **consumer guidance, retirement planning, later lifetime lending, vulnerable customers, financial education, savings and investments**.
- TISA is recognised for the **expert technical support provided to members** on a range of operational and regulatory issues targeted at improving infrastructure and processes, establishing standards of good practice and the interpretation and implementation of new rules and regulations covering **MiFID II, CASS, ESG/RSI, operational resilience, Cyber Risk, SM&CR** and a range of other areas.
- **Digital transformation initiatives** that are driving ground-breaking innovation and the development of industry infrastructure for greater operational effectiveness and revenue promoting opportunity for firms. TISA has become a major industry delivery organisation for consumer focused, digital industry infrastructure initiatives – **TISAtech** (a digital marketplace that brings together financial institutions and FinTechs for greater collaboration and innovation) and **TURN** (TISA Universal Reporting Network – a digital platform providing a secure data exchange for financial services using blockchain technology) – alongside projects **Digital ID** and **Open Savings & Investment**. This reflects TISA's commitment to open standards and independent governance.



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## **Executive Summary**

TISA welcomes the opportunity to respond to the Office of Tax Simplification – Capital Gains Tax (CGT) Review.

We understand that this call for evidence is targeted at simplifying Capital Gains Tax (CGT). With that in mind, a key theme that we would like to draw your attention to is the availability of CGT reliefs and exemptions for the taxpayer. It is clear that, the intention of the CGT reliefs and exemptions is to be available to all, and this is especially important given that in recent times investments are becoming more and more accessible to a wider market through a variety of platforms in various asset classes. This is especially relevant with the Financial Conduct Authority focus on Vulnerable Clients, including inexperienced investors.

Despite this intention, the current complexity of the rules on CGT reliefs and exemptions means that they tend to be difficult for the taxpayer to understand and access without specialist advice. Therefore, we consider it is likely that only those who are able to employ the services of a tax advisor will actually be able to benefit from many of the reliefs.

With this in mind, while we have not provided specific comments to all sections of this call for evidence, this general comment about availability of reliefs for the general taxpayer is one that we feel is applicable to most if not all sections.



## Summary of Questions and Responses

### Acquisition and disposal:

1. Is the scope and boundary of CGT clear? Is it always obvious when an event is chargeable?

#### **No additional comment**

2. How generally aware are taxpayers of their (potential) CGT liabilities following a disposal? Could/should they be made more aware, and if so how?

#### **No additional comment**

3. To what extent do the current CGT rules influence decisions around whether, how or when taxpayers acquire or dispose of assets? And to what extent and how do taxpayers adjust their activity to reflect this?

#### **No additional comment**

4. Are there any specific practical challenges for taxpayers in dealing with the CGT aspects of acquiring and disposing of assets?

#### **No additional comment**

5. Is it always clear and easy to understand which expenses (including capital improvement, acquisition or disposal expenses) qualify for CGT purposes? Are the rules on qualifying enhancement expenditure clear and reasonably straightforward to operate in practice?

**We are of the opinion that it is not always easy to understand which expenses qualify for CGT purposes as the guidance is quite general and therefore difficult to interpret where certain costs are very sector specific.**

**Our suggestion to resolve this would be to provide some sector specific guidance on allowable costs and how these should be allocated in CGT calculations. For example, in the asset and wealth management sector, there are sector specific expenses (for example, fund management fees or transaction costs) which are not currently addressed in the available guidance.**

**We would note that our suggestion has the intention of providing clarity and consistency for allowable expenditure, rather than bringing about any changes to the rules on allowable expenditure. In the case that any rules around expenditure were to change, we note that this could result in potentially costly changes to the current processes and procedures used by businesses to calculate CGT, and therefore this would not form part of our suggestion.**



6. Are there particular practical challenges or issues arising from the CGT rules about acquiring, disposing of or transferring assets on marriage (or civil partnership), separation or divorce?

**No additional comment**

7. Are there particular issues around the boundary with income tax e.g. shares or share rights received by employees or the boundary between trading and investment?

**No additional comment**

**Annual exempt amount (AEA):**

8. In your experience, to what extent do individuals or their agents arrange to time disposals of assets in such a way as to maximise use of their AEA to manage down their tax liabilities?

**No additional comment**

9. Could there be a simpler or more targeted way of taking small gains out of tax?

**The evolution of ISA's have enabled investors to remove small gains out of tax and encourages the saving habit in a tax efficient environment which is easy to understand and maintain.**

**Different rates of CGT (10%/20%/18%/28%)**

10. To what extent do the different rates of CGT cause complexity? Is it always clear which tax rate should apply? Which situations present specific problems? Does the dependence on the income tax higher rate threshold make this inevitable? Do you think the rates position could be made simpler, and if so how?

**Different rates of Capital Gains Tax depending on asset class increases the complexity especially in the housing market which may have a detrimental impact on the small landlords who are seeking to supplement their income in retirement.**

**Issues commonly affecting individual taxpayers**

11. Are you aware of situations where the current rules are not easy to operate perhaps because of changes in society or patterns of work (such as home-working, taking in a lodger, letting out a bedroom to tourists, or the use of gardens or grounds)?

**No additional comment.**

12. Are the ancillary reliefs and occupation rules consistent with what you consider PPR is aiming to achieve? If not, what would make them simpler to apply or better achieve these aims?



**No additional comment**

13. How do you find the principle and practice of making a nomination? Are there better ways of achieving the same ends?

**Chattels exemption**

14. Are there any aspects of the taxation of gains arising from the disposal of chattels that you consider would benefit from being simplified?

**We believe it is important to continue to include the exemption for chattels although the 5/3 calculation is potentially complex for an inexperienced individual and should be reviewed in light of better vulnerable client outcomes.**

<https://www.gov.uk/government/publications/chattels-and-capital-gains-tax-hs293-self-assessment-helpsheet/hs293-chattels-and-capital-gains-tax-2019>

15. Is it clear to taxpayers that gains on significant chattels are potentially taxable? Or is there a general lack of awareness?

**No additional comment**

**Issues commonly affecting business owners and investors**

16. Are there features of CGT that present barriers or distortions at any of these stages? Are the rules simple to understand and apply correctly? Please provide examples along with any suggestions on how the rules could be made simpler.

**No additional comment**

17. Do you know of occasions when CGT rules have affected business decision making more generally, including decisions regarding the structure of a business or the choice of business vehicle (for example a corporate entity, partnership, unincorporated business)?

**No additional comment**

18. Please tell us about any complications or rules which unduly affect the way businesses operate if payment for the sale of a business is not made in cash but in some other way (such as qualifying and non-qualifying corporate bonds, deferred consideration and earn outs). To what extent is there a business tension between claiming a tax relief at the point of sale as opposed to deferring the tax charge until cash is received?

**No additional comment**

**Reliefs available to business owners/shareholders**



19. Is the scope of each of these reliefs intuitive or are there unexpected differences between them that create practical problems for businesses? Are there aspects of any of these reliefs that you consider are unclear or particularly difficult to utilise in practice?

**No additional comment**

20. Are there aspects of these reliefs which distort business decision making (for example in respect of such areas as the timing of the disposal of an asset, or how much cash to accumulate on a company balance sheet) or are inconsistent with your understanding of what the relief is aiming to achieve? Are there any ways in which they could be made less distortive?

**No additional comment**

21. Should gift relief be extended to cover a greater range of business and investment assets as it was until 1989? What would the effect of this be? And would any extension open up unintended avoidance opportunities? Please refer to specific reliefs in your answer and provide illustrative practical examples.

**No additional comment**

#### **Specific asset classes**

22. Are there any aspects of the rules relating to the taxation of gains or losses realised on the disposal of shares and securities that are particularly complex to understand or apply? Are you aware of any difficulties in ascertaining the base cost of such assets, such as the share matching rules?

**No additional comment**

23. Are there any aspects of the taxation of gains arising from the disposal of investment properties, leases, land or buildings that you feel would benefit from being simplified?

**Offshore Fund changes from a non-reporting fund to a reporting fund is a complex area and simplification for investors would be welcomed.**

**If a fund changes from being a non-reporting fund to a reporting fund an investor may wish to make an election to treat themselves as disposing of their investment in the fund immediately before it became a reporting fund and then reacquiring it as an investment in a reporting fund. Any gain on this deemed disposal would need to be returned as an offshore income gain in the relevant income tax return. However, future gains are subject to capital gains tax rather than income tax. The pros and cons of an election depend on specific circumstances.**

**If the investment stood at a loss at the date the fund changes from a non-reporting fund to a reporting fund no election is required, and the investor will be treated as being invested in a reporting fund from the date of acquisition.**





Offshore Fund changes from a reporting fund to a non-reporting fund is a complex area and simplification for investors would be welcomed.

Where a fund changes from being a reporting fund to a non-reporting fund an investor may choose to make an election to treat themselves as disposing of their investment on the last day the fund was a reporting fund and re-acquiring it immediately afterwards. This election can only be made if the report to investors for the last relevant period of account has been provided to the investor. Any gain on this deemed disposal would be treated as a chargeable gain. On ultimate disposal, the investor is subject to income tax on any future gain.

24. Are there other asset classes (such as for example crypto assets) which present challenges or complexity for individuals on disposal?

**No additional comment**

#### **Company issues**

25. Are there particular areas of complexity that relate exclusively to companies? And if so, should these be simplified or made more consistent?

Administration of CGT (for individuals, investors, and unincorporated businesses)

**No additional comment**

#### **Administration**

26. Please describe any problems you have had (or anticipate having) in navigating the online systems or forms and provide any suggestions you have on how the forms or related guidance could usefully be simplified, made clearer or made easier to complete. Please specify which method(s) of reporting your experience relates to.

**No additional comment**

27. Do you have any suggestions about how HMRC could use information it currently has or has access to, in order to reduce administrative burdens, improve customer experience and ensure compliance in respect of individuals' and businesses' CGT obligations? Does HMRC get the balance right between asking for information to avoid unnecessary enquiries and streamlining the experience for those with simple affairs?

**No additional comment**

#### **Payments**



28. Please comment on any complexities or practical problems that you have experienced (or anticipate) in relation to the process of paying CGT. Please specify which reporting system(s) your payment(s) relate to.

**No additional comment**

### **Claims**

29. Are you aware of any particular practical or technical issues (relating to for example record keeping, awareness, use of ringfencing rules, timing deadlines or other challenges) for losses, other claims, or clearances that you feel should be highlighted as part of this CGT review?

**No additional comment**

### **Record keeping, valuation and calculation of any tax payable**

30. What, if anything, could be done to help taxpayers to more easily fulfil their record keeping obligations and calculate any tax payable in relation to their capital gains?

**No additional comment**

31. Have you encountered any difficulty with valuing assets either at acquisition or disposal? What, if anything, could HMRC do to simplify the valuation requirements or processes without opening up unintended avoidance opportunities?

**No additional comment**

32. Would changing to a more recent rebasing date than 1982 make finding the base cost of a disposal easier or would any such benefit be outweighed by an increase in the number of valuations that would then be required?

**No additional comment**

### **Estates in administration**

33. Are there particular aspects of the taxation of capital gains made by those administering an estate that could be simplified?

**No additional comment**

### **Interaction between CGT and IHT and with other taxes**



34. To what extent does the absence of a CGT charge on death and transferring those assets at market value on death distort and complicate the decision-making process around passing on assets to the next generation?

**No additional comment**

35. Are there any aspects of the taxation of gifts or other disposals that are not made at market value, that you feel would benefit from being simplified? Should the range of assets eligible for a tax deferral when they are gifted be broadened to include a greater range of assets? And would any extension open up unintended avoidance opportunities?

**No additional comment**

36. Are there instances where you feel the interaction of CGT with other areas of tax results in particular complexity or difficulty in applying the rules correctly? Are there definitions within CGT that would benefit from closer alignment with the definitions found in other taxes? Please provide examples, as well as any suggestions for ways to simplify the system.

**No additional comment**

37. Are there instances where you feel the interaction of CGT and capital allowances (in respect to income or corporation tax) results in particular complexity, difficulty in applying the rules correctly, or unexpected tax outcomes?

**No additional comment**

#### **Other areas of complexity**

38. Are there any particular areas of complexity that are unique to partnerships?

**No additional comment**

39. Please tell us about any other areas of complexity not covered above in applying any CGT reliefs, thresholds, or administration not already mentioned in your response, along with any suggested improvements to the CGT rules or legislation.

**No additional comment**

40. Are there any areas of complexity that are specific to England, Scotland, Wales or Northern Ireland?

**No additional comment**

#### **Wider CGT framework**



41. Do you think that there are ways in which the taxation of capital gains should be reformed more widely to simplify the regime for the benefit of taxpayers? If so, how?

**No additional comment**

42. Do you think it would be reasonable for some reliefs or exemptions to be removed if they fail to meet what you regard as their policy objective or are infrequently used? If so, which ones?

**No additional comment**

43. Are there any useful lessons that can be learned from the UK's historic CGT regime or other countries that would be relevant to the UK today? If so what, and from which countries?

**No additional comment**