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"Capital Gains Tax: Relief on Disposal of a Business (Entrepreneurs' Relief) 1. The Chancellor today announced a new relief ("entrepreneurs' relief") from capital gains tax (CGT) for gains arising on the disposal of a business.

## The relief

2. The relief will take effect from 6 April 2008 alongside the CGT reform programme announced at the Pre-Budget Report.

3. The relief will be available in respect of:

- gains made on the disposal of all or part of a business, or
- gains made on disposals of assets following the cessation of a business
- by certain individuals who were involved in running the business.

4. The first £1 million of gains that qualify for relief will be charged to CGT at an effective rate of 10 per cent. Gains in excess of £1 million will be charged at the normal 18 per cent rate.

5. An individual will be able to make claims for relief on more than one occasion, up to a lifetime total of £1 million of gains qualifying for relief.

## Background note and further details

6. At the Pre-Budget Report the Chancellor announced a major reform of the CGT regime. From 6 April 2008 there will be a single rate of CGT of 18%. As part of this change the tax-free annual exempt amount (currently £9,200) will remain, but taper relief and indexation allowance will be withdrawn. Draft legislation relating to the changes proposed at PBR has been published on the HMRC website today.

7. The new relief announced today will reduce gains liable to CGT (at the single 18 per cent rate) by 4/9ths, resulting in an effective 10 per cent rate (5/9ths × 18 per cent). The relief will be available for gains of up to £1 million on disposals of a business by an individual.

## Example

Sarah sells her trading business and realises gains of £450,000 (before entrepreneurs' relief). She has made no other claims to the relief, and the whole of the gains are eligible for relief. If she claims the relief the gains of £450,000 will be reduced by 4/9ths (£200,000) and £250,000 of the gains will be liable to CGT (subject to deduction of any allowable losses and the annual exempt amount).

8. The conditions for the new relief will be based broadly on the CGT 'retirement relief' (at sections 163 and 164 and Schedule 6 Taxation of Chargeable Gains Act 1992) that was phased out between 1998 and 2003, but the new rules will be simpler. There will be no minimum age limit for entrepreneurs' relief. And in general entrepreneurs' relief will be available where the relevant conditions are met for a period of one year, instead of the retirement relief qualifying period of up to 10 years. Draft legislation will be published shortly.

9. The relief will apply to gains arising on disposals of the whole or part of a trading business (including professions and vocations, but not including a property letting business other than furnished holiday lettings) that is carried on by the individual, either alone or in partnership. Where a business is not disposed of as a going concern, but simply ceases, relief will be available on gains on assets formerly used in the business and disposed of within 3 years of the cessation of the business.

10. The relief will also apply to gains on disposals of shares (and securities) in a trading company (or the holding company of a trading group) provided that the individual making the disposal:

- has been an officer or employee of the company, or of a company in the same group of companies, and
- owns at least 5 per cent of the ordinary share capital of the company and that holding enables the individual to exercise at least 5 per cent of the voting rights in that company.

The terms 'trading company', 'holding company' and 'trading group' will have the same meaning as they currently do for the purposes of taper relief on business assets. Because of this, there will be no requirement to restrict the gains on shares by reference to any non trading assets held, as was the case for retirement relief.

11. Where an individual qualifies for entrepreneurs' relief on a disposal of shares or securities under the previous paragraph, relief will also be available in respect of any 'associated disposal' of an asset which was used in the company's (or group's) business. For example, if a company director who owns the premises from which the company carries on its business sells the premises at the same time as he sells his shares in the company, the sale of the premises may count as an 'associated disposal' and any gain attract entrepreneurs' relief. The relief due on an associated disposal will be restricted where the asset in question was not wholly in business use throughout the period it was owned.

12. A similar rule will allow relief on an 'associated disposal' by a member of a partnership who is entitled to relief on disposal of his interest in the assets of the partnership. (Again, relief will be restricted where the asset in question was not wholly in business use throughout the period of ownership.)

13. Trustees will also be able to benefit from entrepreneurs' relief on gains on assets used in a business. In order for trustees to benefit, a beneficiary of the trust with an interest in possession relating to those assets must be involved in carrying on the business in question, personally or as a partner. In the case of shares such a beneficiary must qualify as an officer or employee of the company in question. The conditions under which trustees qualify for relief will be generally similar to those for retirement relief. In particular, the £1 million maximum limit on gains eligible for relief will apply to the trustees and the qualifying beneficiary jointly."