A joint response on behalf of Individual Investors from ShareSoc and UKSA

10 August 2020

Office of Tax Simplification
Room G 41
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By email to ots@ots.gov.uk

Capital Gains Tax review -Response on the Principles of CGT

I am writing on behalf of ShareSoc and UKSA, both of whom represent the views of individual shareholders. In addition to our own members, there are 5 million people who own shares and have investment accounts with platforms in the UK. The Office for National Statistics estimates that individual investors own 12% of the UK stock market by value. In addition to this there are many more who have money invested in shares via funds, pensions and savings products such as employee share ownership schemes. See https://www.sharesoc.org/investor-academy/advanced-topics/uk-stock-market-statistics/

1. This is a welcome and timely review. We welcome the opportunity to respond.

Opportunities to simplify CGT and make it fit for purpose

The Chancellor has asked this review to identify and offer advice about opportunities to simplify the taxation of chargeable gains, to ensure the system is fit for purpose and makes the experience of those who interact with it as smooth as possible.

2. We note CGT is paid by few people, is complex for individuals to calculate and raises little revenue. We have reformulated the data you provided on page two of your consultation to highlight this:

CGT Gains p.a.	all CGT payers	>£1m	£12,300 to £1m	less than £12,300
Number of people paying CGT	281,000	8,430	272,570	5 million shareholders pay no CGT and 60+ million others pay no CGT
CGT Paid £bn	£8.80	£ 5.5	£ 3.3	
average paid per person	£31,317	£647,212	£12,268	

3. There should be a **rollover relief** so that CGT is deferred until the capital is withdrawn to be spent. Individuals who sell shares and then re-invest the proceeds in the shares of other companies should not have to pay capital gains. The situation for individuals who invest in a portfolio of shares of companies should be equalised with their investments in unit trust and investment trusts. (Unit trusts and investment trusts pay no capital gains tax when they buy and sell shares. So why should an individual investor?) The current system creates a tax bias in favour of investing via funds, investment trusts and

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trusts and away from investing directly. Funds charge excessive fees (this is the FCA view- see FCA report https://www.fca.org.uk/news/press-releases/fca-publishes-final-report-asset-management-sector) and this causes harm to the individual investor. Swapping an investment from a fund with high charges to a low cost tracker fund can result in a CGT charge and this negates the savings that would otherwise be obtained.

4. CGT is an optional tax in many cases. If you do not realise your capital gain you do not have to pay capital gains. In the extreme case, the capital gains tax liability is wiped out on death. The CGT tax liability of up to 20% tax is however replaced with a 40% IHT liability (at present), so death is not a good tax planning strategy!
5. This creates an incentive to defer sales of shares in companies where you have a significant capital gain. It may be more sensible for Government to encourage shareholders to sell their shares and re-invest in other companies that have greater need of capital and provide better chances of further gains. This is likely to stifle innovation as tax planning concerns causes investors to hold assets in established companies rather than seeking new opportunities in new sectors.
6. ISAs, LISAs and SIPPs are exempt from CGT, so para 5 does not apply to those. We are concerned here about those people who have modest investments above the ISA and SIPP limits, and not those who make millions of capital gains, who should be the prime target of the CGT.
7. This also puts a great burden on HMRC in terms of administration when it brings in so little revenues. Plus, there is an enormous amount of effort put in by investors and their advisors to avoid paying the tax (there are lots of ways to do so). Indeed, one could argue that the current Capital Gains tax regime was invented by accountants as a “make work” project due to the complexity of the rules.
8. The fact that 272,000 people with gains of less than £1million pay an average of £12,000 cgt supports point 7 above.
9. Individual shareholders are the archetypal long-term investors. They tend to invest for retirement, to fund care in later life and to pass on wealth to future generations, as well as for growth and income.
10. Capital gains tax has been subject to a huge number of changes over the past 65 years. Government should not expect a long-term perspective from companies and their owners if it keeps changing the rules. In future, Government should only make changes infrequently and only when they are clearly necessary.
11. Capital gains tax taper relief over 10 years should be reintroduced. The idea that the longer you hold an investment the lower the tax rate will be a huge factor in increasing long-term thinking. The removal of this taper relief (and prior to that, its reduction from 10 years to a shorter period) has been instrumental in stimulating a short-term focus and culture.
12. We, in Britain, need to create a culture of long-term thinking. Patient capital is needed. We need a culture whereby we think about accumulating wealth gradually. The get rich quick culture of the early 2000s served to create a large social imbalance.

Responses to the four themes raised in Section 1.

- **Allowances, including the annual exempt amount its level and the extent to which it distorts decision making;**

13. The annual exemption promotes individuals to sell shares just before 6 April to make use of this tax benefit. This is recognised as standard tax planning and prudent to do. As noted above larger gains tend to be deferred so as to delay and/or avoid the tax. We would prefer rollover relief – see para 3.

- **Exemptions and reliefs, including how they fit together and the extent to which they incentivise some decisions over others;**

14. The problem is that the rules are so complex that they cannot fit together cohesively. A comprehensive review is required. The Chancellor's goal of simplification is the right one. See points 4 to 8, 10, 11 above for further comments.

- **The treatment of losses within CGT, including the extent to which they can be used and whether the loss regime distorts decisions about when to buy or sell assets;**

15. Our proposal of rollover relief would remove the need for loss regime and the distortions that it causes. It would greatly simplify these aspects.

- **The interactions of how gains are taxed compared to other types of income, including how the boundary between what is taxed as gains rather than income works. Should there be different regimes for short-term gains, compared to long-term gains?**

16. There should be different regimes for short and long term capital gains. Short term gains (that are not rolled over) should be taxed as income or as gambling.
17. Employees in Quoted companies are treated differently to those in the investee companies of Private Equity Firms. Employees in quoted and unquoted companies are limited to £30,000 of share options where the gains are subject to CGT (CSOPs) with smaller companies (gross assets <£30m) being able to offer up to £250,000 of EMI options. However, managers in the investee companies of Private Equity Firms are offered "Sweet Equity" and this is only available if you are an employee. Gains from this should be classed as remuneration, in our opinion, but they are not. Consequently, quoted companies are at a disadvantage in recruiting, retaining and incentivising key executives. This review should address this issue.
18. The 2003 MOU with HMRC and BVCA should be reviewed. Private Equity partners and employees should not be able to receive such gains subject to CGT (max 20%) as this does not provide a level playing field with quoted companies whose employees who may have to pay 47% highest rate of tax on their remuneration. For those not familiar with the MOU, here are the links

    https://www.bvca.co.uk/Policy/Tax-Legal-and-Regulatory/Industry-guidance-standardised-documents/Agreements-between-the-BVCA-and-the-UK-tax-authority/Memoranda-of-Understanding
    https://www.bvca.co.uk/Portals/0/library/Files/StandardIndustryDocuments/PDF_1.pdf?ver=2013-06-14-112732-737
    https://www.bvca.co.uk/Portals/0/library/Files/StandardIndustryDocuments/PDF_2.pdf?ver=2013-06-14-112836-650

One of our members, fomer ShareSoc Chairman Roger Lawson, has written a blog about your review which is on our website and has also attracted many comments, both of which you may find of interest. The link is https://www.sharesoc.org/blog/taxation/capital-gains-tax-reform-surely-long-overdue/

If you would like to discuss our response to the Principles in more detail, we would be happy to attend a meeting.

Your call for evidence also mentioned you would like to meet a range of stakeholders to discuss this review. We would like to do so. Please can you contact me to fix a date and time.

Yours faithfully,

Cliff Weight
Director, ShareSoc