

# Entrepreneurs' Relief

## Overview

Entrepreneurs' Relief (ER) is a valuable relief from capital gains tax for individuals disposing of qualifying business assets, with effect from 6 April 2008. The gains on disposals that qualify for ER are taxed at 10%.

## Q&A

### Is Entrepreneurs' Relief available on disposals made by a company?

No. Entrepreneurs' Relief only applies for disposals by individuals and certain trustees. Companies are not eligible.

### What kind of assets are eligible for entrepreneurs relief?

Entrepreneurs' Relief is available on a material disposal of business assets. These are as follows:

- A disposal of the whole or part of a business owned by the individual throughout the one-year period ending with the date of disposal
- A disposal of, or a disposal of an interest in, an asset in use for the purposes of a business, at the time at which a business ceases to be carried on, where the business was owned by the individual throughout the one year period ending with the cessation of the business. The disposal must be made within the three-year period beginning with the date of cessation, provided that the asset has not been used for any purpose, other than that of the business, during the intervening three year period.

- A disposal of, or a disposal of an interest in, shares or 'securities' of a company, where the company is the individual's 'personal company' and is either a 'trading company' or the 'holding company of a trading group' and the individual is an officer or employee of the company; or, where the company is a member of a trading group, of one or more companies which are members of the group. These conditions must be satisfied throughout either:

a) the one-year period ending with the date of disposal; or

b) the one-year period ending with the date on which the company ceases to be a trading company without continuing to be or becoming a member of a trading group or ceases to be a member of a trading group without continuing to be or becoming a trading company. In this case, the disposal must be made within the three-year period beginning with the date of cessation.

An individual's personal company is a company in which he holds at least 5% of the ordinary share capital and in which he is able to exercise at least 5% of the voting rights by virtue of that holding, unless obtained by exercising an EMI option after 5 April 2012.

**“Entrepreneurs' Relief is an important consideration for anyone disposing of a business asset. Do not however assume you are entitled to it!”**

**Alan Ross, Tax Director**



## Entrepreneurs' Relief

Is Entrepreneurs' Relief available to a partner in a partnership or a member of an LLP on a partner or member withdrawing from the partnership, even if there has been no cessation of all or part of the partnership business?

Yes. A disposal by an individual of the whole or part of his interest in the assets of a partnership is treated as a disposal by him of the whole or part of the partnership business. At any time when a business is carried on by a partnership, the business is treated as owned by each individual who is at that time a member of the partnership.

What is the time limit for claiming Entrepreneurs' Relief?

Entrepreneurs' Relief must be claimed by the normal Self Assessment filing deadline, i.e. by 31 January following the end of the tax year to which the claim relates.

Is there a maximum amount of Entrepreneurs' Relief that can be claimed?

Yes. The maximum amount of gain entrepreneurs' relief has been increased a number of times since its inception and the limit is now £10,000,000 for disposals on or after 6 April 2011. An important point to bear in mind is that this limit is a lifetime limit. So, when considering the amount of relief available, it is necessary to consider any previous claims to Entrepreneurs' Relief.

ER is now worth a maximum of £1.8m to taxpayers, but the conditions are strict and merely holding business assets is not sufficient to qualify for relief. Specialist advice should be sought to ensure relief is maximised.

### Next step

To learn more about Entrepreneurs' Relief, please call us on 01628 770 770.

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**Alan Ross, Tax Director**

