

## **FINANCE (NO. 2) ACT 2010**

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### **EXPLANATORY NOTES**

#### ***Section 2 Schedule 1: Rates of Capital Gains Tax***

##### **Background Note**

35. Since 6 April 2008 capital gains tax has been charged at a single rate of 18 per cent. Gains in respect of which entrepreneurs' relief is claimed have been taxed at an effective rate of 10 per cent (up to a lifetime limit of qualifying gains of £1 million, increased to £2 million with effect from 6 April 2010). This effective 10 per cent rate was given effect by reducing qualifying gains by 4/9 and charging the balance at the single 18 per cent rate.
36. The changes made by Schedule 1 replace this single 18 per cent rate of CGT with effect from 23 June 2010.
37. Gains qualifying for entrepreneurs' relief will be charged at a new 10 per cent rate, instead of being reduced by 4/9 and charged at 18 per cent, and the lifetime limit on total gains eligible for relief is increased from £2 million to £5 million.
38. For individuals, the rate at which gains, other than gains qualifying for entrepreneurs' relief, are charged will depend upon the individual's top rate of income tax for the year. If an individual's taxable income is lower than the maximum of their basic rate band, gains up to the amount of the shortfall are charged at 18 per cent. Any other gains of individuals are charged at 28 per cent.
39. Gains of trustees of settlements and personal representatives of deceased persons are charged at 28 per cent.
40. Because different gains may be charged at different rates of CGT, there is a new rule that losses and the annual exempt amount (AEA) are deductible from gains in the order that gives the best result for the taxpayer. This will normally mean that losses and the AEA are deducted first from the gains potentially liable at the highest rate.
41. Because the changes to the rates of CGT take effect part of the way through the tax year 2010-11, gains arising between 6 April 2010 and 22 June 2010 are chargeable under the old rules at 18 per cent, with gains qualifying for entrepreneurs' relief being reduced by 4/9 before being charged. Gains arising on or after 23 June 2010 are charged under the new rules, as explained at paragraphs 36 to 39 above.
42. The rule for deduction of losses described at paragraph 39 will apply to all gains of the year 2010-11. This will normally involve losses and the AEA being deducted:
  - first from gains (other than gains qualifying for entrepreneurs' relief) arising on or after 23 June 2010, that are chargeable at 28 per cent or 18 per cent;
  - then from gains arising between 6 April 2010 and 22 June 2010 (including gains qualifying for entrepreneurs' relief that have been reduced by 4/9), that are chargeable at the previous single 18 per cent rate; and

*These notes refer to the Finance (No. 2) Act 2010  
(c.31) which received Royal Assent on 27 July 2010*

- finally from gains arising on or after 23 June 2010 that qualify for entrepreneurs' relief and are chargeable at the new 10 per cent rate.