Personal tax and trust planning

AF1 2024–25 edition

Web update 1: 18 December 2024

As announced in the Autumn Budget 2024 on 30 October 2024:

- The lower main rate of capital gains tax (CGT) will increase to 18% and the higher main rate will rise to 24% for disposals made on or after 30 October 2024.
- From 31 October 2024, the higher rate for additional dwellings stamp duty land tax (SDLT) surcharge will be increased from 3% to 5%. The single rate of SDLT charged on the purchase of dwellings costing more than £500,000 by corporate bodies will also be increased by two percentage points to 17%.

Therefore, the following content should be updated as noted in **bold**.

Part 1, section A4, page 15:

Individuals who are taxable at the higher capital gains tax (CGT) rate of **24%** should give thought to CGT planning and consider using their CGT annual exempt amount. However, the benefit of the annual exempt amount has diminished for 2024/25, with the exemption reduced to £3,000 (it was £12,300 for 2022/23). They should ensure that disposal of an asset associated with a business qualifies for business asset disposal relief because this reduces the tax rate to just 10% on qualifying gains, subject to a lifetime limit of £1 million.

Part 1, section D, page 19:

- Anyone who holds share options should consider the tax position (as well as the investment issues) when deciding whether to exercise them now or in a future tax year. This is particularly relevant because CGT may be at **18% (10% between 6 April and 29 October 2024)** and/or the higher rate of **24% (20% between 6 April and 29 October 2024)**, depending on whether the gain or part of it falls within the individual's basic rate band in the year of exercise.

Part 1, section G1A, page 23:

- Pension contributions may also impact CGT liabilities because they will increase a person's basic rate tax band and therefore reduce the amount of gains taxed at the higher CGT rate of 24% (20%, or **24% for residential property gains, between 6 April and 29 October 2024)**.

Part 1, section I, page 29:

CGT planning is important, especially because a higher rate of **24%** applies when gains fall within a person's higher- or additional-rate income tax band. Basic-rate taxpayers are taxable at **18%. Capital** gains have previously benefited from a relatively high annual exempt amount, but for 2024/25, the exemption is just £3,000 (it was £12,300 for 2022/23).

These rates of CGT apply to disposals made on or after 30 October 2024 (the date of the Autumn Budget 2024). Prior to 30 October 2024, the basic rate of CGT was 10%, with a higher rate of 20%. However, the current rates of 18% and 24% applied for non-exempt residential property gains (e.g. buy-to-lets).

Part 1, section I2, page 30:

A **24%** CGT rate applies to gains that do not fall within an individual's basic rate income tax band.

- Even though a higher CGT rate of **24%** can apply, it is still considerably less than the higher and additional income tax rates of 40% and 45%. For high-income individuals, it may therefore be preferable to choose investments aimed at producing capital growth rather than income.

- The link to an individual’s income means that it may be possible for a higher-rate taxpayer to save 20% income tax, 6% NICs and reduce the CGT rate by **6% (24% down to 18%)**, e.g. if a sole trader buys a computer qualifying for the 100% annual investment allowance.
- An individual may be able to dispose of assets in a tax year when they have little income to avoid the **24%** rate, e.g. if a sole trader has a loss-making year.
- The benefit of holding investments within an ISA is enhanced for higher- and additional- rate taxpayers because they will save CGT at the higher rate of **24%**.
- It is more beneficial to defer gains by investing in the enterprise investment scheme (EIS) when this saves CGT at the higher **24% rate. Given that the rate of CGT where business asset disposal relief is available is going to increase to 14% (from 6 April 2025) and then 18% (from 6 April 2026), it is not beneficial to defer a gain if it will be taxed at the current business asset disposal relief CGT rate of 10%**. Investors and advisers should bear in mind that EIS investment is inherently risky, and it might be preferable to pay tax at 10% if that rate is **available**.
- Gains can be exempted by investing in the seed enterprise investment scheme (SEIS), although only 50% of the reinvested gains are exempt. Given the 50% income tax relief available, such an investment will result in total tax relief of 62% (50% + 12%), saving 50% of the CGT at the higher **24% rate**.

Part 1, section I3, page 30:

- If one partner has fully used their basic rate income tax band and is therefore liable to pay CGT at the higher rate of **24%**, the assets could first be transferred to the other partner if they only pay CGT at the lower rate of 10% (or 18% on residential property gains).

Part 1, section I4, page 31:

- The rate of CGT on the disposal of qualifying assets is 10%. However, these gains must be taken into account when calculating the rate of CGT that will apply cumulatively to non-qualifying disposals. **This rate will increase to 14% from 6 April 2025, and then to 18% from 6 April 2026**.

Part 1, section I5, page 31:

Business asset disposal relief has been extended to external investors in unlisted trading companies by the introduction of investors’ relief. **Investors’ relief offers the same 10% tax rate but has its own separate £1m lifetime limit. This limit applies for disposals made on or after 30 October 2024 (prior to 30 October 2024, the lifetime limit was £10m)**.

Part 1, section J1, page 32:

- ISAs also provide a shelter for those investors who pay CGT, and this is particularly beneficial if they would otherwise pay CGT at the higher rate of **24%**.

Part 1, section K1, page 34:

It is also possible to defer CGT on a gain of any size by reinvesting in EIS shares. The gain must be reinvested in the period that starts one year before and ends within the three years following the disposal. The investor still has to pay CGT on the deferred gain when they dispose of the EIS shares. It may be possible to defer gains subject to CGT at the higher rate of **24%** until such time as the **18%** rate is available. However, such planning will not work if gains are too large because these are always likely to exceed an individual’s basic rate income tax band and so be taxable at **24%**. There is also the risk that CGT rates will increase in the future. It is important to remember that most EISs are high risk and low liquidity investments.

Part 1, section K2, page 34:

- For someone paying CGT at the higher rate, the maximum overall tax relief for 2024/25 is 62% (i.e. 50% + 12%), saving 50% of the CGT at the higher **24% rate**.

Part 1, section L1, page 35:

Gains within life funds

Gains within a UK life fund are subject to tax at up to 20% (with no relief given for inflationary increases arising from January 2018 onwards as a result of the indexation allowance being frozen at the December 2017 value). In contrast, some taxpayers do not pay CGT on their direct holdings of investments because of the annual exempt amount. But other individual investors who hold their investments directly pay **18%** or **24%** and are therefore taxed broadly **slightly less** beneficially, than a UK life fund.

Part 1, section L5, page 38:

- Gains are not taxed within the fund, but they are ultimately subject to income tax on the investor as part of the chargeable gain on encashment. So, for most taxpayers, the whole of the gains generated within the fund is eventually taxed at 20%, 40% and/or 45% on encashment (although the personal savings allowance and top-slicing relief can reduce the amount payable). This compares with a personal CGT rate (after the annual exempt amount) of **18%** or **24%**.

Part 1, section O4B, page 42:

- Capital gains in excess of the trustees' annual CGT exempt amount – which is £1,500 (2024/25) – are taxed at the rate of **24%**. Given the general availability of holdover relief, this should not present a problem for trustees if assets are appointed to beneficiaries rather than being sold.
- Individuals can avoid the **24%** CGT rate by transferring assets into a trust that is not a bare trust and claiming holdover relief.

Part 1, section O8B, page 44:

The personal representatives are liable to CGT at **24%** on any chargeable gains on disposals made by the estate during the administration **period**.

Part 1, section P9B, page 52:

The rate of CGT for individuals is **18%** for a basic-rate taxpayer and **24%** for a higher- or additional-rate taxpayer (or for any part of the chargeable gain exceeding the unused part of the individual's basic rate **band**).

A higher rate of **24%** applies to chargeable gains of trustees and personal representatives.

Part 1, section P10, pages 55 and 56:

The choice between an immediate CGT charge of **18%** and/or **24%**, and a deferred IHT rate of 40% then becomes more complex, especially as reliefs and exemptions are not being uprated in line with inflation. However, it is not just a question of tax rates; there are important differences between the two taxes:

[…]

Business asset disposal relief
It might be possible to structure disposals of businesses and certain business assets to qualify for the 10% CGT rate that **currently** applies when business asset disposal relief is available. Chargeable gains can often be held over but there is much less scope to defer IHT.

Investors' relief may also need to be considered. This relief applies to external investors in unlisted trading companies (or holding companies of trading groups) for newly issued ordinary shares acquired for new consideration on or after 17 March 2016. The investment must be held for at least three years from 6 April 2016. A £1m lifetime investors' relief cap applies (this is in addition to the **£1m** business asset disposal relief cap).

Case study 1, model answer to question (c)(v), page 1/10:

- As a basic-rate taxpayer, Jane will have a CGT rate of **18%**. Her CGT liability for 2025/26 will therefore be: £2,600 at **18% = £468**.

Case study 3, Introduction, page 3/2:

Jai and Meera are both resident in England. Neither of them has made any other capital disposals apart from those detailed above.

Be aware

Throughout this question, you should use the rates of CGT applicable to disposals made on or after 30 October 2024, even if the stated date of disposal is earlier than this.

Case study 3, model answer to question (b)(ii), pages 3/5 and 3/6:

- If the shareholding in JKL plc is also sold, the CGT payable will increase by £46,473 at **24%,** so **£11,153**.
- The additional CGT of **£11,153** will be payable by 31 January 2026.

Reinforce

- Chargeable gains are added to taxable income and are taxed at the rate of **18%** if the total of gains plus income is within the basic rate income tax band (£37,700 for 2024/25). Any part of the gains which, when added to income, falls above the basic rate threshold is taxed at **24%**.
- Jai's taxable income of £33,000 does not use up all of his basic rate band of £37,700 so £4,700 of the gain on the studio flat is taxed at the rate of 18%, with the remainder taxed at the higher CGT rate of 24%.
- Having calculated the tax on the sale of the studio flat, it is straightforward to calculate **24%** of the chargeable gain on the sale of the shareholding in JKL plc to get the total CGT **payable**.
- **Whether the annual exempt amount and the** remaining £4,700 of Jai's basic rate band **are** set against the residential property gain or the other gains makes no difference to the **overall** CGT payable.

[...]

Case study 3, model answer to question (c), pages 3/6 and 3/7:

£33,500 at **24%**	**8,040**
CGT payable	**11,570**

[...]

- As it was for Jai, capital losses and the annual exempt amount are set off against gains on the most favourable basis. They are therefore set against the chargeable gain not qualifying for business asset disposal relief since relief is then obtained at the higher rate of **24%** rather than the lower rate of 10%.

Case study 3, model answer to question (d)(ii), page 3/8:

- There can be a CGT saving from transferring an asset into joint names if the transferor spouse is liable to the higher rate of **24%** and the transferee spouse has some unused basic rate tax band. The maximum possible saving is: £37,700 × **(24% – 18%) = £2,262**.
- If the transferee spouse has not used their annual exempt amount, the potential saving is: £3,000 × 24% = **£720**.

Case study 6, Introduction, page 6/2:

Finally, she is wondering if there is any way that the potential rental income from the cottage could be used to help meet the school fees of Sofia's daughters.

Be aware

Throughout this question, you should use the rates of CGT applicable to disposals made on or after 30 October 2024, even if the stated date of disposal is earlier than this.

Case study 10, model answer to question (c), pages 10/7 and 10/8:

- With the normal basis of taxation, Jabulani would have a CGT liability of: (£40,000 – £3,000) at **24% = £8,880**. He would also be taxed on his total income less the personal allowance.

[...]

In addition, his gain of £40,000 would be taxed. After deducting his CGT annual exempt amount of £3,000, the remaining gain of £37,000 would be taxed at **24%**, which is **£8,880**. This gives an overall higher tax liability of **£36,238.75**.

Case study 11, model answer to question (d)(i), page 11/9:

- Tax would then be at a rate **of 24%** because any gains would fall outside her basic rate band.

[...]

- If Alice makes a chargeable gain on selling OEIC shares, she will be liable to CGT on gains above her available annual exempt amount. The rate will be **24%** because Alice's salary uses her basic rate band. As far as gains are concerned, OEICs have an advantage compared with direct investment in shares, because an OEIC can switch investments without the investor being treated as making a disposal. The fact that OEICs themselves do not have to pay tax on realised chargeable gains is a further benefit.

Case study 11, model answer to question (e)(iii), pages 11/10 and 11/11:

- As for other offshore funds, the advantage of reporting status is that chargeable gains are subject to the **18%** or **24%** CGT rates of tax, rather than to income rates of up to 45%.

[...]

- The main tax benefit of a non-reporting fund is that if there are no distributions, no tax liability arises until gains are realised. However, funds targeted at UK investors will generally be reporting funds. For most UK-based investors, the CGT treatment applicable to reporting funds is preferable given the relatively low CGT rates of **18%** or **24%**.

Case study 12, Introduction, page 12/2:

Dan has a portfolio of shares valued at £25,000. He pays monthly premiums in respect of a life assurance policy and makes monthly contributions to a registered personal pension scheme. The life assurance policy is on Dan's life but is held in trust for the benefit of Poppy.

Be aware

Throughout this question, you should use the rates of CGT applicable to disposals made on or after 30 October 2024, even if the stated date of disposal is earlier than this.

Case study 14, model answer to question (c)(ii), pages 14/6 and 14/7:

- The rate of CGT payable on the gain will be **24%**.

[...]

- Helen is an additional-rate taxpayer so her rate of CGT is **24%**.

Case study 14, model answer to question (e)(i), page 14/8:

- SDLT will be: (£250,000 at **5%**) + (£110,000 at **10%**) **= £12,500 + £11,000 = £23,500**.
- The rates of SDLT are increased by the **5%** additional residential property surcharge because Helen already owns property.
- The **5%** surcharge applies to the full purchase price, not just Helen's 50% share.

Case study 14, model answer to question (e)(ii), page 14/9:

Reinforce

- **For transactions on or after 31 October 2024, SDLT rates are increased by 5% for purchases of additional residential properties (the increase was 3% up to 30 October 2024)**. Helen presumably already owns a main residence, but, even if she does not, she owns five rental properties.
- First-time buyers do not pay SDLT on the first £425,000 of a property purchase. A first-time buyer is defined as someone who has never owned a freehold or leasehold interest in a residential property in the UK or anywhere else in the world, and who intends to occupy the property as their main residence. If there are joint purchasers, all purchasers need to be first-time buyers for the relief to apply.
- A joint borrower sole proprietor mortgage would mean Bee was the sole purchaser, with Helen just added onto the mortgage application. With Bee qualifying as a first-time buyer and the **5%** surcharge avoided, SDLT would be reduced to nil. However, Helen would be a joint borrower but would not be a joint owner, so this approach may not be attractive to her.
- If Helen and Bee were instead to own the property as joint tenants, then Helen's interest would automatically pass to Bee on Helen's death. However, since they intend to own the property as tenants in common, Helen's share will only pass to Bee if bequeathed to her under the terms of Helen's will or under the rules of intestacy. IHT will arise in the same way regardless of the means by which Bee inherits the property.
- From 1 April 2025, SDLT thresholds will revert to what they were before 23 September 2022, **but with the 5% increase applicable from 31 October 2024 added in**. If the purchase is delayed until after 31 March 2025, the amount of SDLT payable would increase to: (£125,000 at **5%**) + (£125,000 at **7%**) + (£110,000 at **10%) = £6,250 + £8,750 + £11,000 = £26,000**.
- You can find out more information about SDLT by visiting the GOV.UK website: www.gov.uk/stamp-duty-land-tax.

Notes

- Any change related to the CGT or SDLT will be examined from 30 January 2025.
- This update has been incorporated into the digital copy of the case study workbook, available on RevisionMate.