



Business Assets Disposal Relief

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Business Assets Disposal Relief applies where there is a material disposal of business assets such as:

- Sole traders and partners selling the whole or part of their business
- Company directors/employees selling shares (or securities) in their personal trading company

Relief is also available on the disposal of:

- An asset used in a trade at the time the trade ceases, provided the asset is sold within 3 years of cessation of trade
- Shares in a company which has ceased trading provided the shares are sold within 3 years of cessation; and
- Associated disposals

The business or shares must have been owned for 2 years prior to sale.

A personal company is one where the shareholder owns at least 5% of the ordinary share capital and by virtue of that holding is able to exercise at least 5% of the voting rights. In addition, the shareholder must either be entitled to at least 5% of the distributable profits and 5% of the assets available on a winding up, and/or be entitled to at least 5% of the proceeds of a disposal of the whole of the ordinary share capital of the company.

These conditions must be satisfied for 2 years prior to disposal.

Trading Company Definition

A trading company is a company carrying on trading activities whose activities do not include to a substantial extent activities other than trading activities.

Substantial means not more than 20% of indicators including turnover, Balance Sheet assets and staff resources.



Relief

Relief is given by taxing qualifying gains at 10%. These gains are treated as using any unused basic rate band in priority to other gains.

The relief is only available in respect of eligible gains up to the lifetime limit of £1 million. Gains in excess of the lifetime limit are treated as normal.

Claims

Relief must be claimed on or before the first anniversary of the 31st January following the tax year of disposal.

Associated Disposals

Associated disposals will also qualify for relief. This will be the case if the taxpayer:

- Makes a material disposal of a partnership interest/shares in a company; and
- Owns an asset which is used by the partnership/company; and
- Sells the asset in conjunction with the material disposal

The asset must have been used in the business for at least 2 years (1 year if the trade ceased before 29 October 2018) and (for disposals of assets acquired on or after 13 June 2016) must have been owned for 3 years prior to the disposal.

The material disposal must comprise at least a 5% shareholding in a company/a 5% share in partnership assets.

There is an exception for partnership interests – the material disposal can be less than 5% where it is the disposal of the whole of the interest and the individual owned 5% or more for 3 of the 8 years prior to disposal.

Relief on an associated disposal will be restricted if:

- The asset has not been used in the business throughout its period of ownership
- The individual charges rent for the use of the asset for periods after 5 April 2008
- There is an element of private use of the asset
- The individual has not been involved in the business throughout the period



Relief Where A Company Ceases To Be A Personal Company

Where an individual's shareholding is diluted as a result of the issue of additional shares in a company for cash, an election can be made for a deemed disposal and reacquisition of the shares immediately before the dilution in order to retain entitlement to Business Assets Disposal relief on the gains made prior to the dilution.

The conditions for a disposal of shares to qualify for Business Assets Disposal relief must be met immediately before the share issue.

The election must be made by the first anniversary of 31st January following the tax year in which the notional disposal takes place.

An election can also be made within 4 years of the end of the tax year of the notional disposal for the notional gain to be deferred until the actual shares are sold. The individual must have been an employee for the 2 years prior to the date the notional gain becomes chargeable in order to claim Business Assets Disposal relief on the deferred gain.

How can we help?

Here at Smith Cooper, our partner-led team will work as an extended part of your business to identify any potential threats as well as any opportunities, before recommending and implementing the best solutions to suit your individual circumstances.

[Get in touch with our experts today](#)