



An Roinn Airgeadais
Department of Finance

Public Consultation Paper

CGT Entrepreneur Relief

1. Introduction

The Revised Capital Gains Tax Entrepreneur Relief was introduced in Budget 2016 and brought into law in Finance Act, 2015. It provided that a 20% rate of CGT applies in respect of a chargeable gain or chargeable gains on a disposal or disposals of qualifying business assets on or after 1 January 2016 up to a lifetime limit of €1m. The 20% rate was reduced to 10% by Section 26 Finance Act 2016 in the case of disposals made on or after 1 January 2017 with no other changes made to the Relief.

The express aim of the relief is to improve the environment for entrepreneurs and business people setting up or carrying on productive business activities in the State.

2. Consultation Process

This written consultation will run until Friday 24 May 2019.

How to Respond

The preferred means of response is by email to: CGTERconsultation2019@finance.gov.ie

Alternatively, you may respond by post to:

CGT Entrepreneur Relief Public Consultation,
Room 3.3,

14-16 Merrion Row,
Department of Finance,
Government Buildings,
Upper Merrion Street,
Dublin 2 D02 R583.

When responding, please indicate if you are a business, business professional, adviser, representative body or member of the public.

Freedom of Information

Responses to this consultation are subject to the provisions of the Freedom of Information Acts. The Department may receive requests for any or all information supplied as part of this process. Parties should also note that responses to the consultation will be published on the website of the Department of Finance in full.

3. Stakeholder Consultation Event

The Department intends to hold a stakeholder consultation event regarding taxation supports for SMEs on 6 June 2019 in Dublin. This event will provide an opportunity for interested parties to amplify their views and to participate in a discussion which is intended to help ensure that CGT Entrepreneur Relief fulfils its role.

Please indicate in your reply if you are interested in attending.

4. Background/Context to consultation

(i) Operation of Revised CGT Entrepreneur Relief

The Revised CGT Entrepreneur Relief provides for a rate of 10% to be applied to chargeable gains arising on the disposal by an individual of business assets up to a lifetime limit of €1m.

A qualifying business is a business other than the holding of securities or other assets as investments, the holding of development land or the development or letting of land. The relief applies to individuals only.

The relief does not apply to the following assets:

- a) shares, securities or other assets held as investments
- b) development land
- c) assets on the disposal of which no chargeable gain would arise
- d) assets personally owned outside a company, where such assets are used by the company
- e) goodwill which is disposed of to a connected company
- f) shares or securities in a company where the individual remains connected with the company following the disposal

(ii) Evaluation of Revised CGT Entrepreneur Relief

In order to assess the overall effectiveness, cost, impact and efficiency of the current relief to date, an externally provided tax expenditure evaluation has been commissioned by the Department of Finance. This evaluation will also consider any possible amendments to the current relief and the potential impact and effectiveness of these amendments in addressing the stated purpose.

It has been suggested by a number of stakeholders that amendments be made to the revised Entrepreneur Relief, including, but not limited to, increasing the lifetime limit of the Entrepreneur Relief and removing restrictions on those who may qualify. A frequent argument for expanding Entrepreneur Relief in Ireland is being made by comparing it with the Entrepreneurs Relief scheme which operates in the UK. In this context, the evaluation which will also include comparison with the comparable UK Relief.

This consultation exercise will be of assistance in considering possible changes to the relief.

5. Consultation Questions

Interested parties are invited to make submissions regarding the following questions. It is not necessary for each submission to address every question.

- 1) What aspects of the current structure and design of CGT Entrepreneur Relief work effectively and why?
- 2) What aspects of the current structure and design of CGT Entrepreneur Relief do not work effectively and why?
- 3) If CGT Entrepreneur Relief were to be amended further in the future, what is the main policy and/or technical change that you would request; why would you suggest this?

Department of Finance Tax Expenditure Guidelines:

In answering the consultation questions, respondents are asked to keep in mind the key principles of the Department of Finance Tax Expenditure Guidelines¹ for ex post evaluation, as follows:

- Is the tax expenditure still relevant?
- How much did the tax expenditure cost?
- What was the impact of the tax expenditure?
- Was it efficient?

Possible options for change to the relief:

Potential options for change to the relief are provided below for consideration by respondents. However, this list is not exhaustive and any comments or responses to the consultation can include material to support possible changes along the lines suggested below or indeed any other possible changes to the relief. It should also be noted that these options do not reflect current or possible future thinking by the Department of Finance and are provided only to assist respondents to the consultation process. Comments should, where possible, be supported by evidence.

¹ http://www.budget.gov.ie/Budgets/2015/Documents/Tax_Expenditures_Oct14.pdf.

Possible options for changes to the relief may include;

- changes to the current qualifying conditions for Entrepreneur Relief;
- changes to involve passive investors;
- changes to the relief to attract investment and encourage entrepreneurship (both start-up and repeat entrepreneurship) e.g. influencing the timing of disposals; developing companies of scale; or in retaining enterprises in longterm ownership and what, if any, changes could be made to it to achieve such outcomes.

Other possible changes to be considered may include the following:

- Abolish Retirement Relief and replace with an expanded/upgraded Entrepreneur Relief.
- Expand the lifetime limit for Entrepreneur Relief based on economic / sectoral / employment creation proposals.
- Revise the Entrepreneur Relief based on trading activity rather than business activity if the data analysis suggests that a large number of claimants are not carrying on a trade (i.e. liable to tax under Case I/II of Schedule D).
- The possibility of creating a two tier relief (e.g. maintain existing relief with a higher limit for high growth/high employment start-ups).