

Trusts and estates of deceased persons: Foreign Tax Credit Relief for capital gains

i **Contacts**

Please phone:

- the number printed on page 1 of your Trust and Estate tax return
- the SA Helpline on **0845 9000 444**
- the SA Orderline on **0845 9000 404** for helpsheets

or go to
www.hmrc.gov.uk

To calculate the trust or estate's tax, use this helpsheet to work out the Foreign Tax Credit Relief available to set against capital gains.

Under the terms of a Double Taxation Agreement, or unilaterally, relief by way of credit for foreign tax paid ('tax credit relief') is available to set against UK Capital Gains Tax chargeable on the same gains.

Alternatively, the foreign tax may be deducted in calculating the gain or loss on a particular disposal (see page TCN13 of the *Notes to the Trust and Estate Capital Gains* pages). However, this will only usually be to your advantage where no UK tax is chargeable on a disposal, for example, when a loss results in there being no UK tax against which the foreign tax can be set off.

This helpsheet will allow you to work out the amount of Foreign Tax Credit Relief you can claim. **You will also need to complete the *Trust and Estate Foreign* pages.** You can download these pages from www.hmrc.gov.uk or you can ask the SA Orderline for them.

General principles

- The amount of credit for foreign tax is not to exceed the lower of the foreign tax charged on the gain and the UK tax on the doubly taxed part of the gain.
- If the foreign tax paid exceeds the UK tax on the gain, the excess can neither be deducted from the amount of the gain chargeable to Capital Gains Tax nor can it be repaid.
- The amount of credit must be calculated separately for **each** gain. An excess of foreign tax over the UK tax on a particular gain cannot be credited against tax on any other gain.

Method

Step 1

Make sure that you have completed Pages TC1 to TC4 of the *Trust and Estate Capital Gains* pages and included your computations for each gain.

Step 2

Complete Page TF3 of the *Trust and Estate Foreign* pages to show the amount of each gain for which you are claiming Foreign Tax Credit Relief.

Step 3

Calculate separately the UK Capital Gains Tax chargeable in respect of each gain on which you have paid foreign tax and for which you are claiming credit. Use the Working Sheet at the end of this helpsheet to help you to do this.

Step 4

Compare the UK Capital Gains Tax chargeable on each gain with the amount of foreign tax eligible for credit. The relief you can claim is the **lower** of the two amounts. Copy the total relief due to box 4.10 of the *Trust and Estate Foreign* pages and box T7.28 on page TTCG13 of the Trust and Estate Tax Calculation Guide.

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Column A (rows 1–12)

You should enter in column A details of your chargeable gains minus any gains that are taxable on any settlor or beneficiary of the settlement. Your gains are those after all allowable losses have been set off.

Columns B and C (rows 1–12)

Use these columns to analyse the overall figures shown in column A.

In column B enter the amounts corresponding to gains chargeable to UK Capital Gains Tax for which you are not claiming Foreign Tax Credit Relief, that is, any UK gains and any foreign gains that have either not been subject to any foreign tax or where the foreign tax paid has been deducted in computing the amount of the gain that is chargeable to UK tax – see page 1 of this helpsheet.

In column C(i) to (viii) enter individual gains that have been subject to foreign tax for which you are claiming Foreign Tax Credit Relief. If you have more than eight such gains, photocopy page 5 before making any entries.

When entering details of losses of the year (row 2), the annual exempt amount (where due)(row 3), and losses from previous years (rows 4 and 5) you can allocate the annual exempt amount and unclogged losses in the way that is most beneficial to you. This will normally be by allocating them against gains charged at 28 per cent. However, allocating them to gains where the foreign tax rate exceeds the UK tax rate makes no difference to the UK tax payable as all the UK liability will be extinguished by the foreign tax. See page CGN18 of the *Capital gains summary notes* if you have clogged losses.

You must, where possible and if you have sufficient losses deduct, all of your allowable losses of the year from gains until all gains have been extinguished and any losses brought forward from a previous year to reduce gains to the annual exempt amount even if this means the tax payable in row 10 is reduced to an amount less than the foreign tax paid in row 11.

The annual exempt amount is only due in the year of death and two subsequent years. After this period no annual exempt amount is due.

Column C (rows 11)

Enter the respective amounts of foreign tax eligible for Foreign Tax Credit Relief.

Column C (rows 12)

For each separate column, enter the lower of the figures at rows 10 and 11.

Column A (rows 12)

Add up all the figures in column C, row 12, and enter the total in column A. This is the total Foreign Tax Credit Relief allowable for the year. Copy this figure to box 4.10 in your *Trust and Estate Foreign* pages and box T7.28 on page TTCG13 of the *Trusts and Estates Tax Calculation Guide*.

Example 1

You have gains of £33,500, consisting of UK gains of £6,500 and Country X gains of £15,000 (foreign tax paid at 15%) and Country Y gains of £12,000 (foreign tax paid at 20%).

To maximize your foreign tax credits you would allocate your annual exempt amount to the tax rate bands as follows:

	Column A	Column B	Column C(i)	Column C(ii)
1 Gains before any losses	£33,500	£6,500	£15,000	£12,000
2 Minus losses of the year	£0	£0	£0	£0
3 Minus annual exempt amount*	£10,600	£6,500	£671	£3,429
4 Minus clogged losses of previous years	£0	£0	£0	£0
5 Minus unclogged losses of previous years	£0	£0	£0	£0
6 Equals net taxable gains	£22,900	£0	£14,329	£8,571
7 Gains chargeable at 10%	£0	£0	£0	£0
8 Gains chargeable at 18%	£0	£0	£0	£0
9 Gains chargeable at 28%	£22,900	£0	£14,329	£8,571
10 UK Capital Gains Tax chargeable on gains	£6,412	£0	£4,012	£2,400
11 Foreign tax eligible for credit relief	£4,650	£0	£2,250	£2,400
12 Foreign Tax Credit Relief allowable	£4,650	£0	£2,250	£2,400

*Please note - the annual exempt amount is only due in the year of death and two subsequent years. After this period no annual exempt amount is due.

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Example 2

You have gains of £43,500, consisting of UK gains of £6,500 and Country X gains of £25,000 (foreign tax paid at 15%) that qualify for Entrepreneurs' Relief and Country Y gains of £12,000 (foreign tax paid at 20%). You also have losses brought forward from a previous year of £6,000.

To maximize your foreign tax credits you would allocate your annual exempt amount to the tax rate bands as follows:

	Column A	Column B	Column C(i)	Column C(ii)
1 Gains before any losses	£43,500	£6,500	£25,000	£12,000
2 Minus losses of the year	£0	£0	£0	£0
3 Minus annual exempt amount*	£10,600	£6,500	£4,100	£0
4 Minus clogged losses of previous years	£0	£0	£0	£0
5 Minus unclogged losses of previous years	£6,000	£0	£2,571	£3,429
6 Equals net taxable gains	£26,900	£0	£18,329	£8,571
7 Gains chargeable at 10%	£18,329	£0	£18,329	£0
8 Gains chargeable at 18%	£0	£0	£0	£0
9 Gains chargeable at 28%	£8,571	£0	£0	£8,571
10 UK Capital Gains Tax chargeable on gains	£4,233	£0	£1,833	£2,400
11 Foreign tax eligible for credit relief	£4,650	£0	£2,250	£2,400
12 Foreign Tax Credit Relief allowable	£4,233	£0	£1,833	£2,400

*Please note - the annual exempt amount is only due in the year of death and two subsequent years. After this period no annual exempt amount is due.

Foreign Tax Credit Relief (FTCR) Working Sheet for Capital Gains Tax

	Column A	Column B	Column C(i)	Column C(ii)	Column C(iii)	Column C(iv)
1 Gains before any losses						
2 Minus losses of the year						
3 Minus annual exempt amount						
4 Minus clogged losses of previous years						
5 Minus unclogged losses of previous years						
6 Equals net taxable gains						
7 Gains chargeable at 10%						
8 Gains chargeable at 18%						
9 Gains chargeable at 28%						
10 UK Capital Gains Tax chargeable on gains						
11 Foreign tax eligible for credit relief						
12 Foreign Tax Credit Relief allowable						

Foreign Tax Credit Relief (FTCR) Working Sheet for Capital Gains Tax (continued)

	Column A	Column C(iv)	Column C(v)	Column C(vi)	Column C(vii)	Column C(viii)
1 Gains before any losses						
2 Minus losses of the year						
3 Minus annual exempt amount						
4 Minus clogged losses of previous years						
5 Minus unclogged losses of previous years						
6 Equals net taxable gains						
7 Gains chargeable at 10%						
8 Gains chargeable at 18%						
9 Gains chargeable at 28%						
10 UK Capital Gains Tax chargeable on gains						
11 Foreign tax eligible for credit relief						
12 Foreign Tax Credit Relief allowable						

These notes are for guidance only and reflect the position at the time of writing.
They do not affect the right of appeal. Any subsequent amendments to these notes can be found at www.hmrc.gov.uk