

## Foreign Tax Credit Relief: capital gains

### **Contacts**

Please phone:

- the number printed on page TR 1 of your 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**

If you want to calculate your tax, use this helpsheet to work out the Foreign Tax Credit Relief available against your capital gains. You will need the *Tax calculation summary* pages and *notes*, available from **www.hmrc.gov.uk** or from the Self Assessment Orderline.

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

Alternatively, the foreign tax may be deducted in calculating the gain or loss on a particular disposal. 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 *Foreign* pages, available from **www.hmrc.gov.uk** or from the Self Assessment Orderline.

### **Please note**

- If you are not a resident of the UK, the Isle of Man or the Channel Islands, you will not be entitled to Foreign Tax Credit Relief against UK tax and should not be completing this helpsheet.
- Under most Double Taxation Agreements, gains other than those on real property (for instance land and buildings) or those accruing to a permanent establishment in the UK are only taxable in the country where you are resident and are exempted from tax in the country where the gain arises. If this is the case with your gains then you cannot claim Foreign Tax Credit Relief against UK tax. You should be claiming exemption from the Capital Gains Tax in the country where the gain arises instead.
- There are different rules for withholding tax on gains deducted under the UK/Swiss Tax Cooperation Agreement which came into force on 1 January 2013. Please see the *Foreign notes* for more guidance.

### **General principles**

- The amount of credit for foreign tax is not to exceed the lesser of the foreign tax charged on the gain, and the UK tax on the doubly taxed part of the gain, see below.
- 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 UK tax on any other gain.

## **Method**

### ***Step 1***

Make sure that you have completed pages CG 1 and CG 2 of the *Capital gains summary* pages and included your computations for each gain or loss.

### ***Step 2***

Complete page F 6 of the *Foreign* pages to show the amount of each gain for which you are claiming Foreign Tax Credit Relief.

### ***Step 3***

Fill in the Working Sheet in the *Tax calculation summary notes* to page TCSN 38 working out your taxable income, the amount of the basic rate band available and the rate of Capital Gains Tax for each gain. Remittance basis taxpayers who are not entitled to personal allowances or annual exempt amounts should change box G13 to £0 and enter £0 in box A77. The amount of gains chargeable at 10%, 18% and 28% will then be the amounts in boxes G19, G31 and G33 respectively.

### ***Step 4***

Calculate separately the UK Capital Gains Tax payable for 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 do this.

### ***Step 5***

Allocate any losses of the year to these gains.

### ***Step 6***

Allocate any losses brought forward from earlier years to these gains. When you deduct losses brought forward from gains of a later year (after deducting losses of the same year, first) you only use enough losses brought forward to reduce the gains to the annual exempt amount.

### ***Step 7***

Allocate the annual exempt amount to these gains. Please note that if you are claiming the remittance basis then you will not be entitled to an annual exempt amount unless you are dual resident and would be entitled to personal allowances under a Double Taxation Convention as set out on page 20 of the *Residence, remittance basis etc. notes*. Also if you claimed the remittance basis in earlier years and are remitting gains from that year then you cannot set off any of the annual exempt amount against those remitted gains.

### ***Step 8***

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 39 of the *Foreign* pages.

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Before completing the Working Sheet, if some gains for which you are claiming Foreign Tax Credit Relief are chargeable at 28% and some at 18% or 10% then you need to decide which of your gains are going to be charged at 28%, 18% and 10%. This can affect how efficiently you can claim relief for any foreign tax paid and so how much UK Capital Gains Tax you have to pay.

The following rules set out what is probably going to be the most efficient way to allocate your gains.

- Any gains where the minimum foreign tax payable is at least 28% of the UK gain before any losses and annual exempt amount are taken into account, should be allocated to the 28% rate first.
- Any other gains (other than attributed gains where personal losses cannot be set off) where the minimum foreign tax payable is more than 18% of the UK gain before any losses and annual exempt amount are taken into account should generally be allocated to the 28% band next.
- You cannot set off losses against some attributed gains so you need to decide whether attributed gains on which foreign tax has been paid at a rate between 18% and 28% of the UK gain before any annual exempt amount is taken into account should be allocated to the 28% band.

If you have enough losses and annual exempt amount to fully cover all your gains other than attributed gains where personal losses cannot be set off, then it is probably better to allocate these attributed gains to the 18% band if possible.

It is likely that one gain will fall partly within the 28% band and partly within the 18% band. If that is the case, for the Working Sheet on page 8 split this gain into two parts, one charged at 18% and one charged at 28%. Allocate the foreign tax paid on this gain against the part charged at 18%, up to the amount of UK tax payable on this part of the gain. Any excess foreign tax on this gain should then be allocated to the part charged at 28%.

## **Completing the Foreign Tax Credit Relief Working Sheet for capital gains**

### ***Column A (rows 1 to 12)***

You should enter in column A details of your chargeable gains.

Your gains are those before allowable losses have been set off. You can find details of all of the gains to enter on your completed computation Working Sheets from page CGN 21 of your *Capital gains summary notes*.

### ***Columns B and C (rows 1 to 12)***

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

Enter in column B 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.

Any amount remaining after losses and the annual exempt amount have been taken into account will need to be allocated to the 10%, 18% and 28% rates in rows 7, 8 and 9 as appropriate.

Enter in columns C(i) to C(x) individual gains that have been subject to foreign tax for which you are claiming Foreign Tax Credit Relief. If you have more gains than will fit in the helpsheet, photocopy pages 8 and 9 of this helpsheet before making any entries.

When entering details of losses of the year (row 2) and 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 losses in the way that is most beneficial to you. This will normally be by allocating them against gains chargeable to UK tax at a rate of 28% first. Allocating them to gains where the foreign tax exceeds the UK tax or allocating more losses or annual exempt amount that needed to reduce the UK tax payable on the gain to the foreign tax available to set off against the UK tax, makes no difference to the UK tax payable as the UK liability will already be extinguished by the foreign tax. See page CGN 18 of the *Capital gains summary notes* for guidance if you have clogged losses.

You must where possible, and if you have sufficient losses, deduct all your allowance and 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 that the tax payable in row 10 is reduced to an amount less than the foreign tax paid on the gain in row 11.

### ***Column C (row 11)***

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

### ***Column C (row 12)***

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

### ***Column A (row 12)***

Add up all the figures in column C, row 12, and enter the total in column A row 12. This is the total Foreign Tax Credit Relief allowable for the year. Copy this figure to box 39 in your *Foreign* pages.

### Example 1

You have total gains of £35,000 of which £7,000 are chargeable at 18% and £15,400 at 28%, £8,000 against which no Foreign Tax Credit Relief is being claimed, an attributed gain where personal losses cannot be set off against them from Country X totalling £15,000 (foreign tax paid £2,250) and a gain from Country Y of £12,000 (foreign tax paid £2,400). You also have £2,000 losses brought forward from a previous year and are entitled to the annual exempt amount for 2012-13 of £10,600. 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)	Column C(iii)	Column C(iv)
1 Gains before any losses	£35,000	£8,000	£7,000	£8,000	£12,000	
2 Minus losses of the year						
3 Minus annual exempt amount	£10,600	£6,000		£4,464	£136	
4 Minus clogged losses of previous years						
5 Minus unclogged losses of previous years	£2,000	£2,000				
6 Equals net taxable gains	£22,400	£0	£7,000	£3,536	£11,864	
7 Gains chargeable at 10%						
8 Gains chargeable at 18%	£7,000	£0	£7,000			
9 Gains chargeable at 28%	£15,400		£0	£3,536	£11,864	
10 UK Capital Gains Tax chargeable on gains	£5,572	£0	£1,260	£990.08	£3,321.92	
11 Foreign tax eligible for credit relief	£4,650		£1,260	£990	£2,400	
12 Foreign Tax Credit Relief allowable	£4,650		£1,260	£990	£2,400	

#### Notes

- 1 The gain from Country X has been split into two parts, £7,000; charged at 18% and £8,000 charged at 28%. The foreign tax has been allocated against the part charged at 18% first up to 18% of this part of the gain with the balance allocated to the part of the gain charged at 28%.
- 2 Since the attributed gains cannot have personal losses set against them it is best in this case to set off the annual exempt amount against the gains from Country X to the extent needed to reduce the UK tax charged to the foreign tax paid on this gain even though this gain is only charged at 18%. This is because there will still be enough annual exempt amount and losses to cover the gains in column B and reduce the UK tax payable at 28% on the gain in column C(ii) to the amount of foreign tax paid on this gain.

## Example 2

You have gains of £33,000 in the tax year, consisting of gains against which no Foreign Tax Credit Relief is being claimed of £18,000, attributed gains where personal losses cannot be set off against them from Country X totalling £7,000 (foreign tax paid at £560) and other gains from Country Y totalling £8,000 (foreign tax paid at £1,600). You also have £21,000 losses on chargeable disposals made during the year. All your basic rate band has been used up by other income.

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)	Column C(iii)	Column C(iv)
1 Gains before any losses	£33,000	£18,000	£7,000	£8,000		
2 Minus losses of the year	£21,000	£18,000		£3,000		
3 Minus annual exempt amount	£10,600		£7,000	£3,600		
4 Minus clogged losses of previous years						
5 Minus unclogged losses of previous years						
6 Equals net taxable gains	£1,400	£0	£0	£1,400		
7 Gains chargeable at 10%						
8 Gains chargeable at 18%						
9 Gains chargeable at 28%	£1,400			£1,400		
10 UK Capital Gains Tax chargeable on gains	£392	£0	£0	£392		
11 Foreign tax eligible for credit relief	£2,160		£560	£1,600		
12 Foreign Tax Credit Relief allowable	£392		£0	£392		

### Notes

- 1 The losses of the year cannot be set off against the attributed gains and so must be set off against other gains, even though this results in foreign tax on gains being more than the UK tax payable on that gain and no longer being useable for relief against UK tax payable. The unused foreign tax cannot be carried forward to later years and so is lost.
- 2 In the same way, the annual exempt amount must be used in full and so covers all but £1,400 of the gains, even though this results in foreign tax becoming un-useable. In this case it makes no difference whether the £1,400 gain left in charge is the gain from Country X or the gain from Country Y as the foreign tax paid on either gain exceeds the £392 UK tax charge.

### Example 3

You have no basic rate band remaining. You are not claiming remittance basis for this tax year. You have gains of £170,000, consisting of UK gains of £18,000 of which £5,000 qualifies for Entrepreneurs' Relief, Country X gains of £90,000 (foreign tax paid £11,400) and Country Y gains of £62,000 (foreign tax paid £18,600) that is a gain remitted from a year in which you had claimed the remittance basis. You also have £13,000 losses brought forward from a previous year.

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)	Column C(iii)	Column C(iv)
1 Gains before any losses	£170,000	£18,000	£90,000	£62,000		
2 Minus losses of the year						
3 Minus annual exempt amount	£10,600	£10,600				
4 Minus clogged losses of previous years						
5 Minus unclogged losses of previous years	£13,000	£2,400	£10,600			
6 Equals net taxable gains	£146,400	£5,000	£79,400	£62,000		
7 Gains chargeable at 10%	£5,000	£5,000				
8 Gains chargeable at 18%						
9 Gains chargeable at 28%	£141,400		£79,400	£62,000		
10 UK Capital Gains Tax chargeable on gains	£40,092	£500	£22,232	£17,360		
11 Foreign tax eligible for credit relief	£30,000		£11,400	£18,600		
12 Foreign Tax Credit Relief allowable	£28,760		£11,400	£17,360		

#### Notes

- 1 The annual exempt amount cannot be set off against the gains from Country Y as this is a gain remitted from a year during which the remittance basis was claimed. However, the foreign tax paid on this gain exceeds the UK tax payable so there is no benefit to setting off any losses against this gain as an alternative.
- 2 It is better in this example to use losses and annual exempt amount against the gains charged at the higher UK rates than against the amounts charged at 10% (Entrepreneurs' Relief).

## 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 C(v)	Column C(vi)	Column C(vii)	Column C(viii)	Column C(ix)	Column C(x)
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 any rights of appeal. Any subsequent amendments to these notes can be found at [www.hmrc.gov.uk](http://www.hmrc.gov.uk)