

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 the SA 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 enable you to work out the amount of Foreign Tax Credit Relief you can claim. You will also need to complete the *Foreign* pages. Ask the SA Orderline for a copy if you do not already have these.

Please note

- If you are not a resident of the United Kingdom, the Isle of Man or the Channel Islands, you will not be entitled to Foreign Tax Credit Relief against United Kingdom tax and should not be completing this help sheet.
- Under most Double Taxation Agreements most gains other than those on real property (for instance land and buildings) or those accruing to a permanent establishment in the United Kingdom are only taxed in the State of residence. If your gain(s) should only be taxed in the United Kingdom then you cannot claim Foreign Tax Credit Relief against United Kingdom tax.

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 in respect of which you are claiming Foreign Tax Credit Relief.

Step 3

Fill in the working sheet in the SA110 *Tax Calculation Summary notes* to page TCSN 38 work out your taxable income, the amount of the basic rate band available and the rate of capital gains tax for each gain.

Step 4

Complete the first working sheet on page 10 of this helpsheet to determine how much of your gains that you have paid foreign tax on are chargeable in the UK at a particular rate.

Step 5

Subtract box TC36 in this Working sheet from box G40 on page TCSN 38 of the SA110 *Tax Calculation summary notes* to determine the amount of gains against which no foreign tax has been paid are chargeable at 28%.

Step 6

Subtract box G14 from box G2 on page TCSN 37 of the SA110 *Tax Calculation summary notes* to determine how much of your attributed gains arising on or after 23 June 2010 onwards are potentially chargeable at 28%.

Step 7

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 second Working Sheet on page 11 of this helpsheet to help you do this.

Step 8

Allocate any losses of the year to these gains.

Step 9

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 10

Allocate the Annual Exempt Amount to these gains. 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 21 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 11

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.

Calculating the UK tax payable on your gains

Total Gains

Enter in boxes TC1, TC12 and TC23 below the amount of all your Capital Gains, other than on attributed gains where personal losses cannot be set off. Use TC6 and TC17 for attributed gains.

	Other gains from 23 June 2010 From box G3 on page TCSN 37 of the SA110 notes	Gains accruing before 23 June 2010 From box G15 on page TCSN 37 of the SA110 notes	Gains from 23 June 2010 that qualify for Entrepreneurs Relief From box G21 on page TCSN 37 of the SA110 notes
Total gains	TC1 <input type="text"/>	TC12 <input type="text"/>	TC23 <input type="text"/>

Gains on which you are claiming Foreign Tax Credit Relief

Enter in boxes TC2, TC13 and TC24 below the amount of all your Capital Gains, other than on attributed gains where personal losses cannot be set off, for which you are claiming Foreign Tax Credit Relief

If any gains arose before 23 June 2010 enter the total amount of these gains in box TC13

If any gains arose on, or after, 23 June 2010 and qualify for Entrepreneurs Relief enter the total amount of these gains in box TC24.

All other gains arising on, or after, 23 June 2010 should go in box TC2

Use boxes TC7 and TC18 for attributed gains

TC2 <input type="text"/>	TC13 <input type="text"/>	TC24 <input type="text"/>
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Gains on which you are not claiming Foreign Tax Credit Relief

	TC1 minus TC2 TC3 <input type="text"/>	TC12 minus TC13 TC14 <input type="text"/>	TC23 minus TC24 TC25 <input type="text"/>
	From box G8 on page TCSN 37 of the SA110 notes		
Allocation of Total losses	TC4 <input type="text"/>	TC4 minus TC3 TC15 <input type="text"/>	TC15 minus TC14 TC26 <input type="text"/>
Gains after losses	TC3 minus TC4 TC5 <input type="text"/>	TC14 minus TC15 TC16 <input type="text"/>	TC25 minus TC26 TC27 <input type="text"/>
Attributed gains	From box G2 on page TCSN 37 of the SA110 notes TC6 <input type="text"/>	From box G14 on page TCSN 37 of the SA110 notes TC17 <input type="text"/>	

If the gain arose on, or after, 23 June 2010 enter it in box TC7

	TC7	<input type="text"/>	TC18	<input type="text"/>
		TC6 minus TC7		TC17 minus TC18
	TC8	<input type="text"/>	TC19	<input type="text"/>
		TC5 + TC8		TC16 + TC19
Total gains after losses	TC9	<input type="text"/>	TC20	<input type="text"/>

Total gains after
AEA and losses

		TC10 minus TC9		TC21 minus TC20
TC10	<input type="text"/>	TC21	<input type="text"/>	TC28
	TC9 minus TC10		TC20 minus TC21	
TC11	<input type="text"/>	TC22	<input type="text"/>	TC29
				TC29 @ 10%
				TC30
				TC22 @ 18%
				TC31

Basic Rate Band available
to use for capital gains

From box G36
on page TCSN 38
of the SA110 notes

TC32

Available unused Basic
Rate Band

	TC32 minus TC29
TC33	

Post 23 June 2010 gains chargeable at 18%

Lower of TC11 and TC33		TC34 @ 18%	
TC34		TC35	

Post 23 June 2010 gains chargeable at 28%

TC11 minus TC34		TC36 @ 28%	
TC36		TC37	

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Before completing the next 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 accruing on or after 23 June 2010 (Step 6 or box 33 of the *Capital gains summary* pages) 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 below 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 (on pages 10 and 11)

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 19 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 B1 the amounts corresponding to gains chargeable to UK Capital Gains Tax for which you are not claiming Foreign Tax Credit Relief that are charged at 18%. 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.

Enter in Column B2 the amounts that will be charged at 28% for which you are not claiming Foreign Tax Credit Relief.

Enter in columns C(i) to (viii) 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 11 before making any entries.

When entering details of losses of the year (row 2) and 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 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 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 £3,000 of the basic rate band remaining to set against gains in working out the capital gains tax payable. All gains accruing before 23 June 2010 are taxable at 18%. You have gains of £35,000, consisting of gains against which no Foreign Tax Credit Relief is being claimed of £8,000 of which £6,000 are post 22 June 2010 gains charged at 28% (Step 5). You also have an attributed gain where personal losses cannot be set off against them from Country X totalling £15,000 (foreign tax paid £2,250) that accrued before 23 June 2010 and a gain from Country Y of £12,000 (foreign tax paid £2,400). Of this post 22 June 2010 gain where foreign tax credit is being claimed, £9,000 is chargeable at 28% (as there is £3,000 of the basic rate band still available to utilise against this gain). The attributed gain of Country X is taxable at 18% as it accrued before 23 June 2010. You also have £2,000 losses brought forward from a previous year. You are entitled to the annual exempt amount for 2010-11 £10,100.

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

	Column A	Column B1	Column B2	Column C(i)	Column C(ii)	Column C(iii)
1 Gains before any losses	£35,000	£2,000	£6,000	£15,000	£3,000	£9,000
2 Minus losses of the year						
3 Minus annual exempt amount	£10,100		£5,243	£2,500		£2,357
4 Minus clogged losses of previous years						
5 Minus unclogged losses of previous years	£2,000	£1,243	£757			
6 Equals net taxable gains	£22,900	£757	£0	£12,500	£3,000	£6,643
7 Gains chargeable at 10%						
8 Gains chargeable at 18%	£16,257	£757		£12,500	£3,000	
9 Gains chargeable at 28%	£6,643		£0			£6,643
10 UK Capital Gains Tax chargeable on gains	£4,786.26	£136.26	£0	£2,250	£540	£1,860
11 Foreign tax eligible for credit relief	£4,650			£2,250	£540	£1,860
12 Foreign Tax Credit Relief allowable	£4,650			£2,250	£540	£1,860

Notes

- 1 The gain from country Y has been split into two parts, £3,000 charged at 18% and £9,000 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 AEA 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 AEA and losses to cover the gains in column B2 which are charged at 28% and reduce the UK tax payable at 28% on the gain in column C(iii) to the amount of foreign tax paid on this gain.

Example 2

You have no basic rate band remaining to set against gains in working out the capital gains tax payable. You have gains of £32,000 in the tax year, consisting of gains against which no Foreign Tax Credit Relief is being claimed of £18,000 of which £13,000 accrued before 23 June 2010. You also have a number of 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 £7,000 (foreign tax paid at £1,400). You also have £21,000 losses on chargeable disposals made during the year. Of the gains from Country Y, £6,200 accrued on or after 23 June 2010 and are chargeable at 28%.

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

	Column A	Column B1	Column B2	Column C(i)	Column C(ii)	Column C(iii)
1 Gains before any losses	£32,000	£13,000	£5,000	£7,000	£800	£6,200
2 Minus losses of the year	£21,000	£13,000	£5,000			£3,000
3 Minus annual exempt amount	£10,100			£6,900	£0	£3,200
4 Minus clogged losses of previous years						
5 Minus unclogged losses of previous years						
6 Equals net taxable gains	£900	£0	£0	£100	£800	£0
7 Gains chargeable at 10%						
8 Gains chargeable at 18%	£900			£100	£800	
9. Gains chargeable at 28%						
10 UK Capital Gains Tax chargeable on gains	£162			£18	£144	£0
11 Foreign tax eligible for credit relief	£1,960			£560	£144	£1,256
12 Foreign tax credit relief allowable	£162			£18	£144	£0

Notes

- 1 The gains from country Y has been split into two parts, £800 charged at 18% and £6,200 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 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.
- 3 In the same way the annual exempt amount must be used in full and so covers all but £900 of the attributable gain and other gains not covered by losses of the year even though this results in foreign tax becoming un-useable.

Example 3

You have no basic rate band remaining to set against gains in working out the capital gains tax payable. 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 are chargeable at 28%, the balance accruing before 23 June 2010), 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. Of the gains where foreign tax credit is being claimed, £78,000 accrued on or after 23 June 2010 and are chargeable at 28%.

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

	Column A	Column B1	Column B2	Column C(i)	Column C(ii)	Column C(iii)
1 Gains before any losses	£170,000	£13,000	£5,000	£74,000	£16,000	£62,000
2 Minus losses of the year						
3 Minus annual exempt amount	£10,100				£10,100	
4 Minus clogged losses of previous years						
5 Minus unclogged losses of previous years	£13,000	£2,100	£5,000		£5,900	
6 Equals net taxable gains	£146,900	£10,900	£0	£74,000	£0	£62,000
7 Gains chargeable at 10%						
8 Gains chargeable at 18%	£84,900	£10,900		£74,000		
9 Gains chargeable at 28%	£62,000		£0			£62,000
10 UK Capital Gains Tax chargeable on gains	£32,642	£1,962		£13,320		£17,360
11 Foreign tax eligible for credit relief	£30,000			£11,400	£0	£18,600
12 Foreign Tax Credit Relief allowable	£28,760			£11,400	£0	£17,360

Notes

- 1 The gains from country X has been split into two parts, £74,000 charged at 18% and £16,000 charged at 28%. The foreign tax has been allocated entirely against the part charged at 18% since it is less than 18% of this part of the gain.
- 2 The AEA 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.

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

	Column A	Column B1	Column B2	Column C(i)	Column C(ii)	Column C(iii)
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 any rights of appeal. Any subsequent amendments to these notes can be found at www.hmrc.gov.uk