CHAPTER 1

INTRODUCTION TO CAPITAL GAINS TAX

All statutory references are to the Taxation of Chargeable Gains Act (TCGA) 1992 unless stated otherwise.

1.1 Introduction

Capital gains tax is a relatively new tax, having been introduced on 6 April 1965. The legislation has been amended considerably several times since it was introduced. The most recent changes were in Finance Act 2008.

In general terms a **capital gain** will arise when a person disposes of a **capital asset** at a **profit**. Profit, again in general terms, is the excess of proceeds over cost. A capital gain will arise when a chargeable person makes a chargeable disposal of a chargeable asset.

1.2 Chargeable person

A chargeable person could be an **individual** or it could be a **company.** Note here, however, that if a company makes a capital gain - it will not pay capital gains tax but instead the company will pay corporation tax on its capital gain.

TCGA 1992, s. 1

For an individual to be chargeable to capital gains tax, that individual must either be **resident** in the UK **or ordinarily resident** in the UK. The meaning of resident and ordinarily resident is the same as for income tax.

TCGA 1992, s. 2(1)

It is an important principle for capital gains tax that the individuals who do not live in the UK do not pay UK capital gains tax even if they sell an asset that is situated in the UK.

1.3 Chargeable disposal

The most common way for a person to dispose of an asset is to **sell** it to another person. However, a **gift** also constitutes a disposal for capital gains tax purposes. There are provisions within the capital gains tax legislation that provide for the **loss or destruction** of an asset also to be treated as a disposal for CGT.

TCGA 1992, s. 21(2)

1.4 Chargeable assets

A chargeable asset is any asset which is **not specifically exempt** under the capital gains tax legislation. If you cannot find an asset on the list of exempt assets, it will be a chargeable asset for capital gains tax purposes.

TCGA 1992, s. 21(1)

1.5 Exempt assets

Cars are always exempt from capital gains tax. The legislation defines a car as a "mechanically propelled road vehicle suitable for the conveyance of passengers". As such, assets such as vans and lorries are not exempt from CGT, because they do not satisfy the definition of the word "car".

TCGA 1992, s. 263

Wasting chattels are exempt from CGT. A chattel is **"tangible, moveable property"** – i.e., an asset that one can see, touch and move. A wasting chattel is a chattel with a useful life of not more than **fifty years**. Assets such as greyhounds and racehorses are exempt from CGT.

TCGA 1992, s. 45

TCGA 1992, s. 262

Gilts are also exempt from CGT. Gilts are Treasury Stock issued by the UK Government on which annual interest is payable. Gilts are exempt from capital gains tax because they will satisfy the definition of a Qualifying Corporate Bond (QCB). QCBs are exempt assets for CGT.

TCGA 1992, s. 115

TCGA 1992, s.117

Shares in an **ISA** (Individual Savings Account) are exempt as are shares in **VCTs** (Venture Capital Trusts). Gains on shares in **EIS** companies are also exempt but subject to certain conditions.

SI 1998/1870

TCGA 1992, s. 151A

This is not an exhaustive list and there are one or two other assets that are also exempt from capital gains tax. These include foreign currency held for personal expenditure outside the UK, certain decorations for valour, life assurance policies and certain works of art. Remember if an asset is not specifically exempt, it must be a chargeable asset for capital gains tax.

Annex to SP 4/92

TCGA 1992, s. 258

1.6 Calculation of CGT

From 2008/09 onwards an individual's taxable gains are charged at a fixed rate of capital gains tax of 18%.

TCGA 1992, s. 4

1.7 Annual exemption

Every individual has an annual exemption for capital gains tax. This annual exemption is **£10,100** for the tax year 2009/10. The annual exemption is similar to the personal allowance for income tax in that the first £10,100 of capital gains in the year are not chargeable to CGT. Therefore, in order to arrive at taxable gains, we take chargeable gains and deduct £10,100.

TCGA 1992, s. 3

Illustration 1

Charlie's income for 2009/10 consists of his salary of £25,000. This salary is before the deduction of any personal allowances. In 2009/10 Charlie makes a capital gain of £30,000. From this capital gain we deduct the annual exemption of £10,100.

	£
Capital gain	30,000
Less: annual exemption	(10,100)
Taxable gain	£19,900

The taxable gain of £19,900 is taxed at 18%

The total capital gains tax due is therefore:

CGT	
£19,900 @ 18%	£3,582

As you can see the level of Charlie's income has no effect on the amount of capital gains tax he will pay.

1.8 Due date

Capital gains tax is always due and payable on **31 January following** the year in which the gain was made. For 2009/10, the CGT will be due and payable on 31 January 2011.

TMA 1970, s. 59B

Example 1

Emily has the following income and gains in 2009/10:

	£
Income: UK dividends	55,000
Capital gain	45,000

Calculate the CGT due for 2009/10.

Example 2

Indicate whether the following assets are chargeable or exempt.

	Chargeable	*Exempt*
a) Cottage in Lake District		
b) Villa in Spain		
c) Antique vase		
d) Vintage Rolls Royce		
e) Shares in Tolley Ltd		
f) Shares in an ISA		
g) Thoroughbred racehorse		
h) National Lottery ticket		
i) Factory used for business		

Answer 1

Capital gains	45,000
Less: Annual exemption	(10,100)
Taxable gains	£34,900
CGT	
£34,900 @ 18%	£6,282

Answer 2

		Chargeable	*Exempt*
a)	Cottage in Lake District		
b)	Villa in Spain		
c)	Antique vase		
d)	Vintage Rolls Royce		
e)	Shares in Tolley Ltd		
f)	Shares in an ISA		
g)	Thoroughbred racehorse		
h)	National lottery ticket		
i)	Factory used for business		