Chartered Accountants and Business Advisors

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Worthless assets and negligible value claims

Introduction

Where an asset has been lost or destroyed or the value of the asset has become negligible, it may be possible to take advantage of an allowable loss for capital gains tax purposes. It should be noted, however, that the loss will only be an allowable loss if any gain on the disposal of the asset would have been a chargeable gain.

A distinction is drawn between assets that have ceased to exist and those that have become of negligible value.

Assets that have been lost or destroyed

The entire loss, destruction, dissipation or extinction of an asset is treated as a disposal or that asset, regardless of whether or not any compensation is received. The resulting loss is allowable for capital gains tax purposes. If any compensation is received, this is treated as proceeds from the disposal.

Negligible value claim

If the asset still exists but has become of negligible value, as long as one of two conditions – A or B – is met, a negligible value claim can be made by the owner of the asset.

The legislation does not define ‘negligible’ but HMRC take the view that it means that is worth ‘next to nothing’.

Condition A is that the asset has become of negligible value while still owned by the person.

Condition B is that:

- the disposal by which the person acquired the asset was a no gain/no loss disposal (as is the case between spouses and civil partners)
- at the time of that disposal, the asset was of negligible value
- between the time when the asset became of negligible value and the disposal by which the person acquired it, any other disposal of the asset was on a no gain/no loss basis

Asset must still exist

For a negligible value claim to succeed, the asset must exist when the claim is made. If the asset has ceased to exist, for capital gains tax purposes there has been an actual disposal of the asset (as outlined above in relation to assets lost or destroyed).

No time limit

There is no time limit by which a negligible value claim must be made. However, the asset must be of negligible value at the date of the claim. The claimant must be able to demonstrate that the asset became of negligible value while owned by them (or where acquired from a spouse or civil partner in a no gain/no loss disposal, while owned by their spouse or civil partner). Evidence should be retained to support the claim.

Effect of a successful claim

A successful negligible claim gives rise to a deemed disposal of the asset, with the asset immediately being reacquired for the amount specified in the claim. The loss on the deemed disposal is an allowable loss, provided that any gain that had arisen on the disposal of the asset had been an allowable loss. It should be noted that the allowable loss arises from the deemed disposal rather than from the negligible value claim itself.

In certain circumstances where the claim relates to qualifying shares, the loss can be set against income.

Recommendation

If you are expecting a large gain on the disposal of an asset, it is worth reviewing your portfolio to see if you have any potential negligible value claims to make.

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