



Will you qualify for Entrepreneurs' Relief?

Relief ripe for the picking

Entrepreneurs' Relief reduces the rate of capital gains tax that you pay on your first £10,000,000 of gains from 28% to 10% - but care may be needed to ensure that the relief is not jeopardised especially when a sale is envisaged.

To qualify for Entrepreneurs' Relief the gain must be made on shares in the company or group that you are either an employee or director of. You must have held at least 5% of the ordinary share capital and at least 5% of the voting rights for a period of at least 12 months ending with the sale.

Consider the following four scenarios:

1. Tom, Dick and Harry are all employees of Escape Limited. They hold EMI options which will entitle them each to receive 10% of the ordinary share capital and voting rights on exercise. Escape Limited is acquired at which point Tom, Dick and Harry all exercise their options.
2. Mike holds 4% of the ordinary share capital of Austin Limited, a company that he is a director of. In addition Mike has options which, once exercised, will increase his total shareholding to 10%. Austin Limited is sold and Mike exercises his options immediately prior to the sale.
3. Sean is a company director of Bond Limited and owns 6% of the ordinary share capital of the company. Roger, Piers and Daniel are all employees who hold options which, upon exercise, will entitle them to 5% of the ordinary share capital of the company. The effect of the option exercise will reduce Sean's percentage holding to 4%. Bond limited is acquired and immediately prior to the acquisition Roger, Piers and Daniel all exercise their options.
4. Marlon owns 8% of the ordinary share capital of Corleone Limited. His shareholding is split equally between Ordinary A Shares and Ordinary B Shares. The ordinary shares carry the rights to receive dividends but no entitlement to the assets on liquidation and no right to vote.

Question: Which of the above will be able to claim Entrepreneurs' Relief on their gains?

Answer: None of them will - but they could with some upfront planning.

If you are one of the following:

- An option holder
- A shareholder in a company in which there are also option holders
- A shareholder in a company with different classes of shares

Review your eligibility for Entrepreneurs' Relief now. Waiting until the sales process starts will be too late!