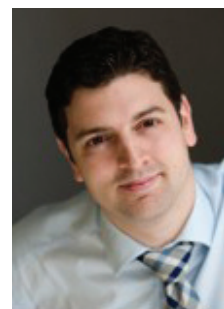


**From Norman Cowan & Christopher Axford**  
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## Potential Capital Gains Tax Rises in the UK – an Opportunity?



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### Potential Tax Rise

2010 is an election year in the UK with Prime Minister Gordon Brown having the final say on the precise date. However a General Election must be held by June 2010.

The current Government has announced that its Budget proposals will be given before the Election and traditionally this has taken place in March or April.

You may be wondering why a newsletter on Business Restructuring and Insolvency has opened with this topic? Well, since 6 April 2008 the rate of capital gains tax has been 18 %. In the case of qualifying business disposals, an effective rate of 10 % is available on the first £ 1 m of gains under the Entrepreneurs' relief.

Increases in the highest rate of income tax in the UK to 50 % have already been announced and it is expected that the rate of capital gains tax payable in the UK will be increased from 18 %, perhaps together with a change to the current level of available Entrepreneurs' relief.

There is a strong possibility that such increases could be announced in the Budget, perhaps raising the 18 % rate up to the level of the higher income tax rate, as was the position before 6 April 2008. Such changes could apply from Budget day.

### The Business Restructuring and Insolvency Unit Angle?

Owners of solvent companies have the opportunity to consider winding up a company, by way of a 'Members Voluntary Liquidation' procedure and distributing the net assets of the company to the shareholders as capital distributions according to the number of shares capital held.

A **Members Voluntary Liquidation** is a procedure designed to wind up a company where there are surplus assets after paying all creditors. A Liquidator must be appointed who will control the winding-up procedure, ensure all creditors are paid in full, and distribute surplus assets to the shareholders. The process is uncomplicated, with no Court proceedings, and can be commenced quickly, bringing finality to the corporate responsibilities of directors.

This procedure may be of particular interest to owners of a Company, who are seeking to leave the UK, in particular overseas owners or groups, or those who may be considering closing a business down or just seeking retirement.

## Tax Planning

A capital distribution from a [Members Voluntary Liquidation](#) should benefit from the current 18 % capital gains tax rate and potentially the more beneficial 10 % rate under the Entrepreneurs' relief.

In practice HM Revenue & Customs do not regard the ordinary liquidation of a company, where it ceases or is sold to an unconnected third party, as being done for tax avoidance purposes. However, where the tax affairs are involved then it may be appropriate to first obtain clearance from HM Revenue & Customs.

The future is uncertain and tax planning should only be based on the current tax regime. However, what is known is that the UK public purse is under pressure and taxes are expected to rise as a consequence, and capital gains tax could be one of these to rise.

## Opportunities

The above is just one example of the way in which the current economic climate may generate opportunities for clients and for practitioners. If you think the above applies to your clients' circumstances, please contact Norman Cowan of Wilder Coe as soon as possible to discuss the options available.

## Future Contributions to the News Letter

Finally, we are seeking submissions for the next edition of the Business Restructuring and Insolvency Unit Newsletter. If you have an item of interesting news or an interesting development in Restructuring or Insolvency practice in your jurisdiction, please contact us; we would be delighted to hear from you.