# The Finance Acts 1998 and 2000: Can the owners of Agricultural land continue to Gain from their Capital disposals?

## Introduction

The Finance Bill 1998 introduced a number of significant changes to the Capital Gains Tax (CGT) regime. Further substantial changes were made in 2000. This paper assesses the impact of those changes on the owners of property, particularly farmland. Contrary to many peoples' hopes, the new provisions do not simplify the necessary computations involved in calculating liability to CGT. Neither do they reduce the need for taxpayers to keep detailed records of all capital transactions. It should be noted that the changes do not affect companies, who continue to be taxed under the CGT rules in place in March 1998, so for the foreseeable future there are effectively two capital gains tax regimes.

The Finance Act 1998 introduced three substantial reforms to the CGT system:

1. The indexation allowance is effectively frozen. Indexation was the mechanism for eliminating inflationary gains from the date of acquisition (or date of enhancement in the case of subsequent expenditure on an asset) to the date of disposal. Only expenditure prior to 1st April 1998 now qualifies for indexation relief, and indexation allowances on expenditure run up to April 1998 and no further.

2. With effect from 1999/2000 the relief available on the disposal of business assets on retirement will be phased out, and is to be abolished completely for the tax year 2003/04. Retirement relief has been of enormous benefit to farmers, who, as predominantly small businesses, have generally fallen within the 100% threshold on retirement and have thereby often escaped CGT altogether.

3. As a measure to mitigate the loss of retirement relief and the freezing of the indexation allowance, a new *taper relief* is being phased in. In outline, this relief will operate as a percentage reduction on the gain, at a sliding scale increasing with the length of ownership of the asset. It is necessary to review the rules relating to taper relief in more detail as a precursor to examining its effect in practice. This paper will confine itself largely to business assets. For non-business assets, including let property, lower rates of relief, applying over a longer qualifying period, operate, making the relief less attractive.

The interplay between these measures over the next few years, and the extent to which they interact with other remaining CGT reliefs, notably *rollover relief* (the replacement of business asset) and *loss relief* requires further analysis.

## Taper Relief

Taper relief operates by reducing the amount of the gain on which tax is charged, by reference to the number of years the asset has been held. Only complete years of ownership qualify, and no reference to the tax year is relevant in this calculation. For an asset already owned on 6th April 1998, only complete years from that date count. (The 'extra year' which was originally added to the length of ownership where an asset was owned prior to 17th March 1998 was removed under the 2000 measures, and now no longer applies). For business assets the taper applies over a four-year period, whereas for non-business assets the period is ten years.

So for example, under the Finance Act 1998, if an asset was acquired in February 1998, and disposed of in May 1998, one year's taper relief would be forthcoming (i.e. the 'bonus year'). The asset would need to be retained until 6th April 1999 before gaining a further year's relief. An asset bought on 17th November 1998 would need to be kept until 17th November 1999 before accruing one year's taper relief. Periods of ownership by one spouse will count towards the relief claimed by the other spouse if the asset is transferred between them. Under the current rules, for disposals after 6th April 2000, only whole years of ownership from 6th April 1998 onward will count. So for an asset acquired in February 1998 and sold in April 2001 only three years worth of taper relief will apply.

Sharing the ownership of land between husband and wife is an attractive way of mitigating CGT for farmers, where spouses are often business partners- and can effectively double many of the reliefs that have been available on disposal).

The relief is applied as a straight percentage to the total gain, but can be regarded as reducing the top rate at which CGT is applied (assuming the taxpayer is already in the 40% band) See Table 1., and Example 1.

Table 1. Taper Relief (Business Assets)

| No. of whole years ownership after 5.4.98 | Taper relief % | % of gain chargeable | Effective Tax rate % |
|---|---|---|---|
| 1 | 12½ | 87½ | 35 |
| 2 | 25 | 75 | 30 |
| 3 | 50 | 50 | 20 |
| 4 | 75 | 25 | 10 |

Clearly, whilst Indexation allowance enabled the whole of a gain to be relieved (where it was wholly due to inflation), tapering will not be so generous, allowing only a maximum of 75% of gains (however accrued) to be relieved. Taper relief will increase the longer an asset is owned up to four years, thereby achieving the government's aim of encouraging longer-term investment. Though one has to question why the original taper period of ten years for business assets introduced in 1998 was replaced in 2000 by the current four-year period. As land, and farms in particular, tend to be held for relatively long periods of time, in practise the higher rates of taper relief will usually apply.

Example 1

Farmland was purchased in September 1991 for £300,000, and subsequently sold in June 2004 for £700,000.

| | | |
|---|---|---|
| Proceeds | £700,000 | |
| Cost | £300,000 | |
| | £400,000 | |
| Less, indexation, Sept91 to Apr98, | | |
| *say, 20.8% (of £300,000)* | £ 62,400 | |
| Gain | £337,600 | |
| Less, Taper relief | | |
| *Full 4 year relief, 75%* | £253,200 | |
| chargeable gain | £ 84,400 | |
| **CGT at 40%** | **£ 33,760** | *(ie 10% effective on £337,600)* |

An additional feature of taper relief is that it will be progressively more beneficial than indexation the higher the rate of growth of an asset's value is above the rate of inflation. As a consequence, the relative benefit of taper over indexation increases the longer an asset is held, as long as real gains are made. This is so despite the taper being limited to 75 percent, and applies to both business and non-business assets (where a 10-year period operates to a maximum taper of 60 percent). This can be shown mathematically using a simple model, see Example 2.

Example 2: (see Chart 1 and Table 1)

An asset, purchased for £100, grows in value at 5% per annum whilst the retail prices index (the base for indexation allowance) is projected at 2½% pa.

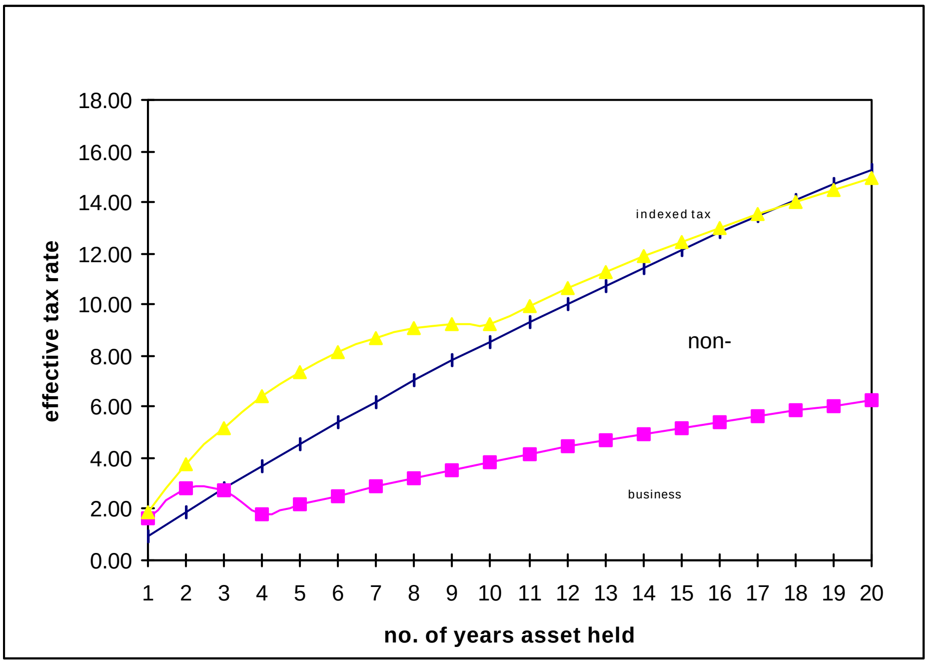



Chart 1: effective tax rates for indexation, business and non-business taper

Table 1 :  Example 2:  Effective rates of tax for indexation, business taper and non-business taper

| | INDEXATION | | | | | TAPERING | | | | business | non-bus | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Year | indexed cost | sale 5% g | gain | tax 40% | effective tax% | actual gain | taper | tapered gain | tax 40% | effective tax% | taper | tapered gain | tax @40 | effective tax |
| 0 | 100 | 100 | | | | | | | | | | | | |
| 1 | 102.5 | 105.0 | 2.5 | 1 | 0.95 | 5.0 | 0.875 | 4.4 | 1.8 | 1.67 | 1.00 | 5.00 | 2.00 | 1.90 |
| 2 | 105.1 | 110.3 | 5.2 | 2.1 | 1.88 | 10.3 | 0.75 | 7.7 | 3.1 | 2.79 | 1.00 | 10.25 | 4.10 | 3.72 |
| 3 | 107.7 | 115.8 | 8.1 | 3.2 | 2.79 | 15.8 | 0.5 | 7.9 | 3.2 | 2.72 | 0.95 | 14.97 | 5.99 | 5.17 |
| 4 | 110.4 | 121.6 | 11.2 | 4.5 | 3.68 | 21.6 | 0.25 | 5.4 | 2.2 | 1.77 | 0.90 | 19.40 | 7.76 | 6.38 |
| 5 | 113.1 | 127.6 | 14.5 | 5.8 | 4.54 | 27.6 | 0.25 | 6.9 | 2.8 | 2.16 | 0.85 | 23.48 | 9.39 | 7.36 |
| 6 | 116.0 | 134.0 | 18.0 | 7.2 | 5.38 | 34.0 | 0.25 | 8.5 | 3.4 | 2.54 | 0.80 | 27.21 | 10.88 | 8.12 |
| 7 | 118.9 | 140.7 | 21.8 | 8.7 | 6.21 | 40.7 | 0.25 | 10.2 | 4.1 | 2.89 | 0.75 | 30.53 | 12.21 | 8.68 |
| 8 | 121.8 | 147.7 | 25.9 | 10.4 | 7.01 | 47.7 | 0.25 | 11.9 | 4.8 | 3.23 | 0.70 | 33.42 | 13.37 | 9.05 |
| 9 | 124.9 | 155.1 | 30.2 | 12.1 | 7.80 | 55.1 | 0.25 | 13.8 | 5.5 | 3.55 | 0.65 | 35.84 | 14.33 | 9.24 |
| 10 | 128.0 | 162.9 | 34.9 | 14.0 | 8.57 | 62.9 | 0.25 | 15.7 | 6.3 | 3.86 | 0.60 | 37.73 | 15.09 | 9.27 |
| 11 | 131.2 | 171.0 | 39.8 | 15.9 | 9.31 | 71.0 | 0.25 | 17.8 | 7.1 | 4.15 | 0.60 | 42.62 | 17.05 | 9.97 |
| 12 | 134.5 | 179.6 | 45.1 | 18.0 | 10.04 | 79.6 | 0.25 | 19.9 | 8.0 | 4.43 | 0.60 | 47.75 | 19.10 | 10.64 |
| 13 | 137.9 | 188.6 | 50.7 | 20.3 | 10.76 | 88.6 | 0.25 | 22.1 | 8.9 | 4.70 | 0.60 | 53.14 | 21.26 | 11.27 |
| 14 | 141.3 | 198.0 | 56.7 | 22.7 | 11.45 | 98.0 | 0.25 | 24.5 | 9.8 | 4.95 | 0.60 | 58.80 | 23.52 | 11.88 |
| 15 | 144.8 | 207.9 | 63.1 | 25.2 | 12.13 | 107.9 | 0.25 | 27.0 | 10.8 | 5.19 | 0.60 | 64.74 | 25.89 | 12.46 |
| 16 | 148.5 | 218.3 | 69.8 | 27.9 | 12.80 | 118.3 | 0.25 | 29.6 | 11.8 | 5.42 | 0.60 | 70.97 | 28.39 | 13.01 |
| 17 | 152.2 | 229.2 | 77.0 | 30.8 | 13.44 | 129.2 | 0.25 | 32.3 | 12.9 | 5.64 | 0.60 | 77.52 | 31.01 | 13.53 |
| 18 | 156.0 | 240.7 | 84.7 | 33.9 | 14.08 | 140.7 | 0.25 | 35.2 | 14.1 | 5.84 | 0.60 | 84.40 | 33.76 | 14.03 |
| 19 | 159.9 | 252.7 | 92.8 | 37.1 | 14.69 | 152.7 | 0.25 | 38.2 | 15.3 | 6.04 | 0.60 | 91.62 | 36.65 | 14.50 |
| 20 | 163.9 | 265.3 | 101.5 | 40.6 | 15.30 | 165.3 | 0.25 | 41.3 | 16.5 | 6.23 | 0.60 | 99.20 | 39.68 | 14.95 |

In this example, whilst initially it can be seen that the business taper fails to compensate for the loss of indexation relief., from year 3 onwards the application of the business taper relief gives a lower effective rate of tax than the indexation allowance. The relative benefit of the taper over indexation can be seen to increase with length of ownership. It will however take eighteen years before taper relief fully compensates for the loss in indexation for a non-business asset.

This has implications for the owners of agricultural land, which as an asset is generally held for long periods, and which historically has enjoyed increases in value in excess of inflation (when held over long periods). Clearly, as long as inflation remains below the taper, both the owners of in hand and the owners of let agricultural land (the latter being viewed as owning non-business assets) will benefit under the new system relative to indexation under the old.

A number of other agriculture-related scenarios can be identified where the new regime will offer substantial benefits to the taxpayer:

1. Where a tenant farmer takes a surrender payment for his lease. Because his base value will be nil, indexation was of no benefit and CGT was payable on the full proceeds. Taper relief however, will now apply to reduce the gain. Similarly, where a tenant acquires the freehold to his farm and subsequently disposes of the vacant possession, the full gain will be relieved and the taxpayer should also be credited with the period when he was tenant, as during this time he held an ‘interest’ in the property.

2. Similarly, Milk Quota allocated in 1984 will have a nil base value, and hence could not benefit from indexation allowance. Taper relief will be available against any gain on disposal, presumably subject to the quota satisfying the definition of business asset, i.e. not leased-out quota.

3. Sales of development land which was acquired at a low base value (agricultural value). Indexation was only available against the acquisition cost, whereas taper relief will be allowed against the full amount of the

gain, giving rise to a substantially greater relief. So farmland bought at say £1,500 per acre, held over ten years, and sold for £ 250,000 per acre will benefit from 75% taper relief on the gain, whereas indexation would only have amounted to say 25% on the original cost, substantially mitigating the liability to CGT.

It is worth noting that in addition to changes to the rates of taper, the Finance Act 2000 also widened the definition of business assets, contributing therefore to a significantly increased scope of the relief.

**Tapered Losses**

For the purpose of calculating chargeable gains, the proceeds of all asset disposals taking place in the tax year are aggregated. The basic rule for capital losses is that any losses suffered on individual disposals are deducted from aggregate gains to arrive at net gains (or losses). CGT rules allow any balance of losses in any tax year to be carried forward to set against subsequent years' net gains. One complication of taper relief that has arisen is therefore how to deal with losses.

Under the taper regime, all losses, whether carried forward or arising in the same tax year, must be deducted from chargeable gains before applying the taper. Effectively this means that losses are similarly tapered to gains, thereby reducing the benefit of loss relief to the taxpayer. In mitigation, the Revenue will allow the losses to be deducted fom the gains attracting the lowest rate of taper relief, thereby maximising the benefit to the taxpayer. In practice this means that losses will have to be allocated to specific gains ordered according to the percentage of gain chargeable to give rise to the greatest reduction in tax payable.

The scenario of falling land values raises the question of crystallising the indexation allowance while there are still sufficient gains to set against, remembering that indexation cannot be used to create a capital loss. One way of doing this while still retaining the land within the farming family would be to gift it to another member of the family and claim holdover relief on any outstanding element of gain.

**Example 3**

Farmland was bought in April 1986 for £200,000 and is currently worth £400,000. If it was sold now it would attract an indexation allowance of 50%. However, the value of land is now falling, and when the farm is finally sold in April 2003, it only realises £250,000.
If the land was sold now (April 2001), CGT payable would be:

| | | | |
|---|---|---|---|
| (a) | Proceeds | £ 400,000 | |
| | Cost | £ 200,000 | |
| | Gain | £ 200,000 | |
| | less, indexation, *say 50%* | £ 100,000 | |
| | less, 1 yr Taper *(12½%)* | £ 12,500 | |
| | Chargeable gain | £ 87,500 | |
| | **CGT @ 40%** | | **£ 35,000** |

The full benefit of indexation is achievable, but there is a large tax bill to meet out of the sale proceeds. However, if the sale was delayed until, say, April 2003, because of falling land values the tax bill can be eliminated, but only part of the indexation allowance can be used:

| | | | |
|---|---|---|---|
| (b) | Proceeds | £ 250,000 | |
| | Cost | £ 200,000 | |
| | Gain | £ 50,000 | |
| | less, indexation limited to | £ 50,000 | *(further £50,000 cannot be used as no gains to offset)* |
| | **CGT due** | **nil** | |

However, by transferring the property to a family member at today's value, and claiming holdover relief on the hypothetical gain arising, the indexation allowance can be crystallised and CGT eliminated from the subsequent sale:

| | | |
|---|---|---|
| Transfer to son, at MV | £ 400,000 | |
| Holdover claimed | £ 87,500 | |
| Son's, deemed acquisition cost | £ 312,500 | |
| Sale in 2003, proceeds | £ 250,000 | |
| **Loss** | | **£ 62,500** |

So no tax arises, and moreover, a capital loss has been made which can be used to offset any other gains in the year, or carried forward.

**Enhancement and identification**

Under the pre-taper rules, any expenditure on improvement was subject to indexation from the date of the expenditure, and gained relief in the same way as acquisition cost. For the purposes of indexation the gain is effectively apportioned between original cost and subsequent expenditure. A more liberal treatment of enhancement expenditure exists under taper relief, in that the *timing* of any subsequent expenditure on improvement of an asset is ignored: the whole gain is related back to the acquisition date and no apportionment of the gain is undertaken. In effect the later expenditure is treated as though it occurred at the time of acquisition.

In the same way, and with particular relevance to farmland, the careful lotting or parcelling of sales and purchases can yield tax advantages to the prudent taxpayer, see
Example 4

**Example 4**

500 acres of farmland are bought in April 1998 at £1000 per acre. A further 50 acres are bought and added to the farm in April 2002 at £1200 per acre. The whole farm is sold in April 2004. Throughout this period, land prices have been increasing at 5% pa.

If the assets were treated as separate the calculation of tax due would be:

| | | | |
|---|---|---|---|
| Sale proceeds on 500 acres | | £ 670,050 | ( *500,000 x* $1.05^{6}$ ) |
| Cost | £ 500,000 | | |
| Gain | £ 170,050 | | |
| Taper relief 75% | £ 127,540 (4*years)* | | |
| Chargeable Gain | £ 42,510 | | |
| CGT @ 40% | | £ 17,000 | |

| | | | |
|---|---|---|---|
| Sale proceeds on 50 acres | £ 66,150 | | ( *60,000 x* $1.05^{2}$ ) |
| Cost | £ 60,000 | | |
| Gain | £ 6,150 | | |
| Taper relief 25% | £ 1,540 | | |
| Chargeable Gain | | £ 4,610 | |
| CGT @ 40% | | £ 1,844 | |
| **Total tax due** | | | **£ 18,844** |

However, by treating the additional purchase as a merger, the gain can be allocated to the whole period of ownership, and taper relief claimed accordingly:

| | | | |
|---|---|---|---|
| Sale proceeds on 550 acres | | £ 736,200 | *(£670,050+ 66,150)* |
| Cost | £ 560,000 | | |
| Gain | £ 176,200 | | |
| Taper relief 75% | £ 132,150 | | |
| Chargeable Gain | | £ 44,050 | |
| **CGT @ 40%** | | | **£ 17,620** |

Thus achieving a modest saving of £ 1,224 in tax.
The IR will presumably look at the ownership of the substantive asset: a taxpayer buying say 5 acres of land, and then 500 acres of land three years later, then selling the whole in year four, would not get full taper on the whole farm, the ownership of the substantive asset would not run from the acquisition of the initial parcel.

If, instead of increasing, the price of farmland falls by 5% pa from 2002, see Example 5, the taxpayer may be better off by selling the land under separate contracts, thereby preserving the taper on the 500 acres and creating a capital loss on the 50 acres. This would only be to his advantage if the two contracts could be staged to fall in different tax years, and if there were other gains at lower taper rates at which to offset the loss. Otherwise the loss would have to be set against the 500 acre gain and the tax effect would be zero.

**Example 5**

| | | | |
|---|---|---|---|
| Sale proceeds 500 acres | £ 548,500 | | |
| Cost | £ 500,000 | | |
| Gain | £ 48,500 | | |
| Taper relief @ 75% | £ 36,375 | | |
| Chargeable Gain | | £ 12,125 | |
| CGT @ 40% | | | £ 4,850 |

| | | |
|---|---|---|
| Sale proceeds 50 acres | £ 54,150 | |
| Cost | £ 60,000 | |
| Loss | | (£ 5,850) |

If the farm were sold as a single asset, the CGT payable would have been £ 4,260:

| | |
|---|---|
| Sale proceeds 550 acres | £ 602,650 |
| Cost | £ 560,000 (*500,000 + 50,000 x* $1.05^4$) |
| Gain | £ 42,650 |

| | | |
|---|---|---|
| Taper, 75% | £ 32,000 | |
| Chargeable gain | £ 10,650 | |
| **CGT @40%** | | **£ 4,260** |

If, in our example above, the taxpayer had no other more beneficial gains available, he would still have the option of offsetting the loss (£ 5,850) against the 500 acre gain (£12,125). It would then be tapered at 75% and would reduce the tax payable from £4,260 to a mere £ 646.

| | | |
|---|---|---|
| Gain on 500 acres | £ 12,125 | |
| Less, loss on 50 acres | £ 5,650 | |
| Net Gains | £ 6,475 | |
| Taper relief @ 75% | £ 4,860 | |
| Ch. Gain | £ 1,615 | |
| CGT @40% | | £ 646 |

The general rule, contained in paragraph 14 of Section 20 of the Finance Act 1998 is that where two or more assets have 'merged' any subsequent taper relief applied on a disposal is related to the ownership of the original asset. The principle applies equally to improvement expenditure which enhances the capital value of an asset, and to the enhancement of value by physically or legally dividing what was once a single asset. Instances of where this principle will be of particular advantage are:

- part disposals with planning permission for development, where the gain relates to the permission, but the taper relief relates to the whole period of ownership;

- Conversion of large residential properties into apartments, and their subsequent disposal;

- farm tenants acquiring the freehold interests of their landlords.

## Taper Relief and Roll-Over Relief

Roll-over relief has been, and continues to be, of enormous benefit to farmers, notably (but by no means exclusively) allowing for the sale proceeds from the disposal of parcels of development land to be reinvested in additional farmland, and thereby deferring the taxation of any gain arising on the development (or other) sale. Expressed simply, the relief operates by reducing the acquisition cost of the new asset by the amount of the gain arising on the disposal (or part-disposal) of the old.

The interaction with Taper relief produces some complications which need to be examined. Two important points arise. Firstly the rolled-over gain is not reduced by taper relief, so for disposals up to April 2000 the bonus year (if applicable) was lost. Secondly, when the replacement asset is itself disposed of, taper relief will only be related to the length of ownership of the new asset (in stark contrast to the merger of assets discussed above). The taxpayer needs to consider whether it is prudent to forego the taper relief attaching to the old asset. If the new asset is going to be held for at least four years it would probably be better to claim roll-over relief. However, as the claim must be made within three years from the date of disposal of the old asset, the taxpayer has to make some prediction at that point as to the likely length of ownership of the new asset, and he is not always in the position of being able to make a truly objective decision.

### Example 6

A farm is bought for £300,000 and sold after 5 years for £700,000. A replacement farm is bought for £800,000. This too is sold after 5 years, realising proceeds of £1,000,000. Calculate the CGT due on both transactions, assuming (1) rollover relief is claimed on the first disposal, (2) no rollover relief is claimed.

option 1: ‘the rollover option’

| | |
|---|---|
| proceeds | £ 700,000 |
| less cost | £ 300,000 |
| gain rolled-over | £ 400,000 |
| | |
| replacement cost | £ 800,000 |
| less rolled over gain | £ 400,000 |
| base value | £ 400,000 |
| proceeds | £ 1,000,000 |
| gain | £ 600,000 |
| taper relief 75% | £ 450,000 |
| gain | £ 150,000 |
| **CGT @ 40%** | **£ 60,000** |

option 2: ‘no rollover claim’

| | | |
|---|---|---|
| proceeds | £ 700,000 | |
| less cost | £ 300,000 | |
| gain | £ 400,000 | |
| taper relief 75% | £ 300,000 | |
| chargeable gain | £ 100,000 | |
| **CGT @ 40%** | **£ 40,000** | |
| | | |
| proceeds | £ 1,000,000 | |
| replacement cost | £ 800,000 | |
| gain | £ 200,000 | |
| taper relief 75% | £ 150,000 | |
| gain | £ 50,000 | |
| **CGT @ 40%** | **£ 20,000** | |
| **total CGT as before** | | **£ 60,000** |

On the face of it, as long as the two assets are kept for the same length of time, there is no relative advantage in either strategy. However, If the time value of money is taken into consideration, the future tax payments would need to be discounted to the present day to enable a true comparison to be undertaken. Clearly in that instance, Option 2 above would be the preferred strategy. ( £60,000 x PV 5 years)

## Taper Relief and Retirement Relief

Retirement from a business was one of the few methods that a taxpayer could employ in order to enjoy complete relief from gains arising from the disposal of assets (the others being emigration, and somewhat less attractively, death). In outline, 100% relief was afforded to gains up to £ 250,000, and 50% relief on further gains up to £1m. These thresholds were reduced pro rata per annum where ownership of the asset was less than ten years. The relief only applied to assets used ‘for the purposes of a trade’. For the tax year 1998/99 these rules remain unchanged, but retirement relief is to be progressively phased out over the subsequent four tax years, by reductions in the threshold figures, see table 2

Table 2

| **Tax year** | **100% threshold** | **50% threshold** |
|---|---|---|
| 1998/99 | £ 250,000 | £ 1m |
| 1999/00 | £ 200,000 | £ 800,000 |
| 2000/01 | £ 150,000 | £ 600,000 |
| 2002/03 | £ 100,000 | £ 400,000 |
| 2003/04 | £ 50,000 | £ 200,000 |
| 2004/05 | nil | nil |

The impact of replacing retirement relief with taper relief is harder to assess in general, as it will depend on the circumstances of the individual taxpayer, and the rate of growth in asset values. Consequently its relative effect is not uniform across all gains. There is also the somewhat academic consideration of whether indexation would have continued alongside retirement relief if the latter had not been replaced, making a direct comparison somewhat problematic. Maximum retirement relief (i.e. assuming ten years ownership) itself produced a sliding benefit, giving rise to effective rates of tax after relief varying from 0% (on gains up to £ 250,000) to 15% (at £1m) and tending towards 40% (on gains over £1m). At its maximum, taper relief gives rise to a constant effective rate of 10%. Generally, taper relief is relatively more generous to taxpayers with large gains than retirement relief. Similarly it is less generous to those with small gains. The trade-off position occurs at gains of approximately £ 500,000.

Retirement relief was only available for business assets. No relief could be gained on the disposal of non-business assets on retirement. The lower rate of taper relief on non-business assets should more than compensate for lost indexation, so the retiring taxpayer disposing of non-business assets should be better off under the new regime.
The situation is less straightforward during the four-year transition period.

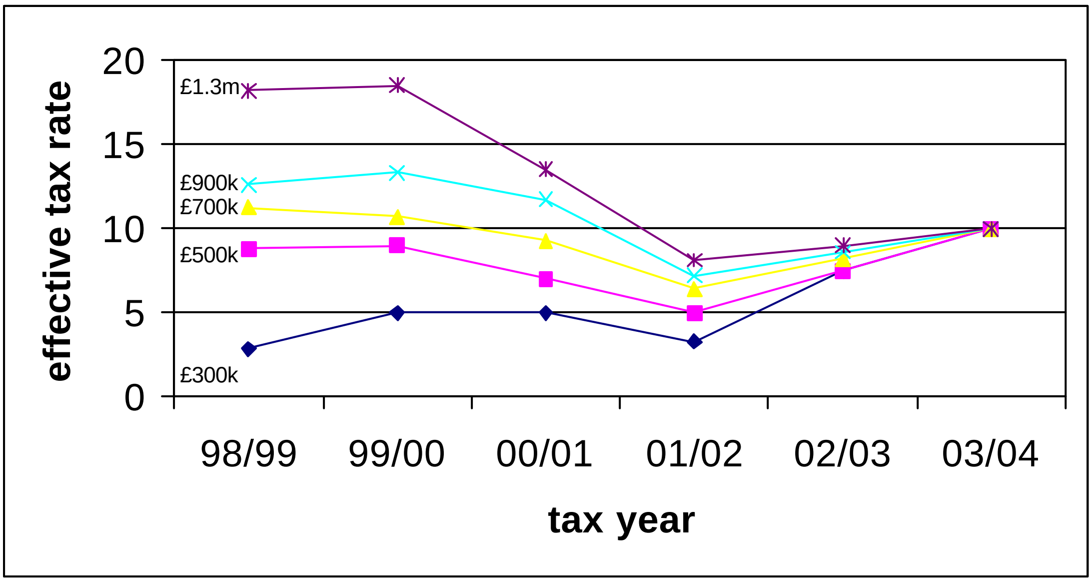
Transitional Period

The phasing out of retirement relief, and the phasing in of taper relief as originally enacted were not evenly matched. This was due to two reasons. Firstly the timescales involved with the two reliefs were not the same; taper being introduced over ten years, retirement relief being lost over four. Secondly, the mechanics of each relief are completely different.

The order of applying the reliefs is critical. Where an asset qualifies for both taper relief and retirement relief, the taper relief will apply to the gain after retirement relief.

There has been much discussion about the benefits or otherwise of the two regimes during the transition period. Perhaps more relevant to the farmland owner considering when to retire from the business is to assess whether there is an optimum date for making the disposal, particularly as retirement relief is obligatory. Intuitively one would expect that the optimum date for making a disposal will vary with the size of the disposal. (And, as we have already examined, with the expected rate of growth in the value of the asset). Eliminating asset growth from the calculation, and assuming the taxpayer already qualifies for maximum retirement relief, the only variable is disposal gain. The optimum date for disposal will be when the effective rate of tax paid on the gain is lowest. For all gains over £400,000, the lowest effective tax rate occurs in the tax year 2001/2002. for example, for gains of £500,000 the effective tax rate in 2001/02 is 5%, some 2% lower than the tax rate in 2000/01 or 2002/03. By 2003/04 the rate has risen to 10%. For gains of less than £400,000, hypothetically the optimum time for disposal was in 1998/9. However, this assumes today's rate of taper, which was not applicable then. Consequently, for these disposals too, the lowest effective rates of tax occur in the tax year 2001/02; see figure2 and table 2.

Figure 2. The interaction between retirement relief and taper relief 1998/9 – 2003/04 for different disposal proceeds.



## Conclusion

Many practitioners had hoped that the new regime promised by Labour would make the calculation of CGT simpler, and that a new taper relief would allow gains to be written off completely after a number of years. Neither of these aspirations has been satisfied by the changes introduced in 1998 and 2000. However, despite the continuing requirement to account for assets individually, there are a number of ways that the new relief can be put to the taxpayer's advantage. Primarily, as long as inflation remains within or close to the government's target, taper relief will more than adequately compensate for the loss of indexation.

Where the taxpayer is considering whether to retire, careful calculations need to be undertaken to assess the optimum date, and steps can be taken to minimise CGT due. Where retirement is not an option for a number of years, the taxpayer will almost certainly be worse off than under the old rules, as 100% relief for 'small' gains will no longer be available. This will inevitably affect many farmer owner-occupiers on retirement, although the ability to create' false' losses and the more advantageous treatment of milk quota may go some way to mitigate the situation.

## References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