

Tax opportunities for rural businesses

Energy and Rural Business Show, Telford, 6 February 2019

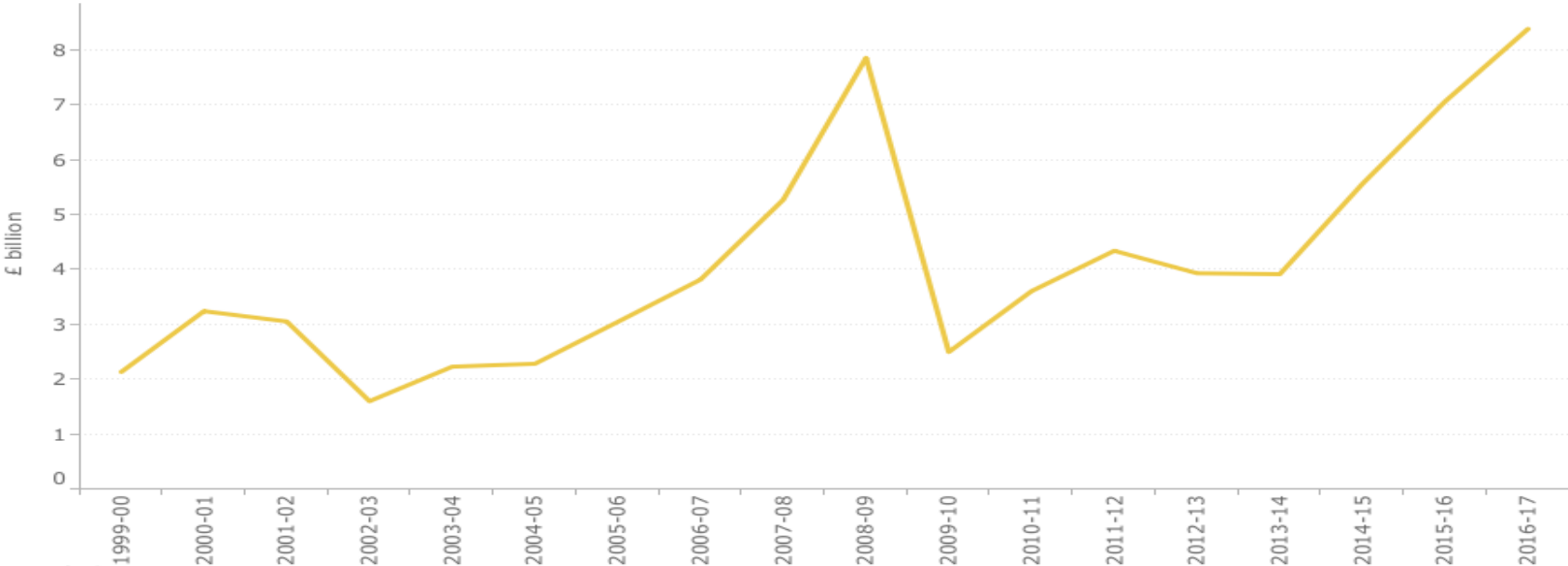
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What are we going to cover?

- Capital gains tax rates
- Capital gains tax reliefs for the sole trader etc
- Inheritance Tax relief
 - BPR and APR

Capital gains tax: recent trends

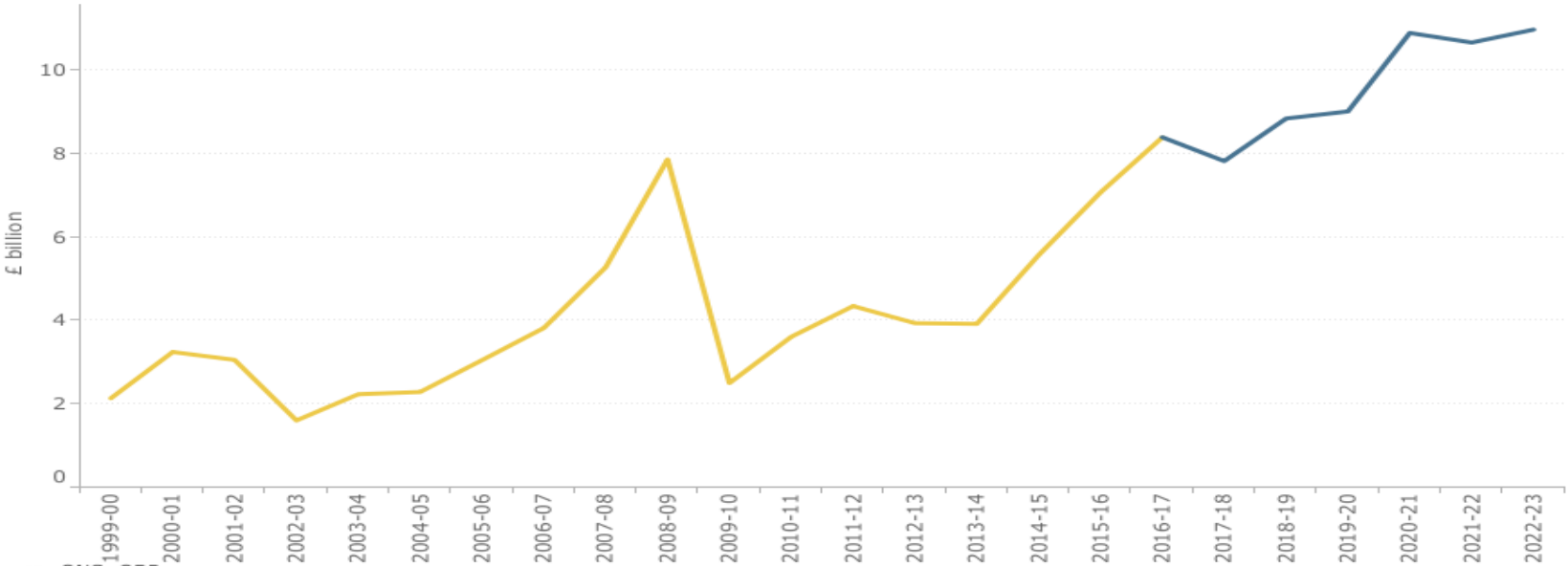
£ billion



Source: ONS

Capital gains tax: latest forecast

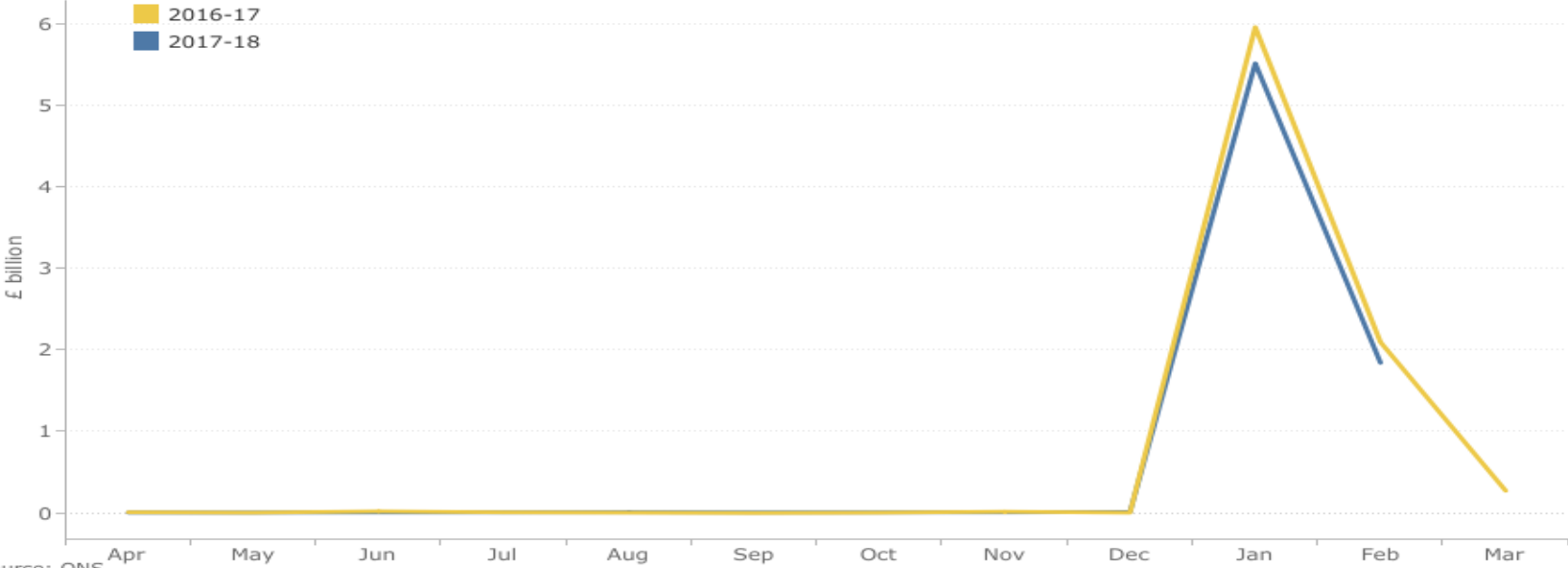
£ billion



Source: ONS, OBR

Capital gains tax: latest data

Monthly



Source: ONS

Capital Gains Tax

Relevant reliefs

- Holdover relief on gifts
- Business Asset Rollover relief
- Incorporation relief
- Entrepreneurs' relief
- Investors' relief

Capital Gains Tax

Gifts Holdover relief

- Gifts of certain business assets or
- A sale of less than market value
- Available on assets used in your trade and shares in non listed trading companies
- Deferral of CGT until the recipient sells the asset

Capital Gains Tax

- Business Asset Rollover relief
- In order to claim you must:
- Be trading
- Have used the old asset in the business and
- Buy the new asset in the required time limit
- The assets must be qualifying assets – these include interests in buildings or land, fixed P&M, goodwill but not shares

Capital Gains Tax

- Incorporation relief
- Works by deferral of CGT
- Gain at incorporation is deducted from value of shares in new company
- Need to transfer all the assets of the business (except cash) in return for shares in the new company
- The business must be transferred as a going concern

Entrepreneurs' relief - reminder

- Entrepreneurs' relief (ER) 10% CGT can apply to the following;
- Disposal of whole or part of a trading business
- Disposal of assets following cessation of trading business
- Disposal of shares in a personal company
 - Personal company - at least 5% of shares and voting rights *, and
 - Must be an employee or officer
 - Trading requirement
 - 12 months immediately prior to disposal *

* Amended in October budget (see later slides)

Entrepreneurs' relief - dilution

- From 6 April 2019 possible to “bank” ER
- Where shareholding becomes diluted below 5%
- By reason of company issuing more shares
- ie does not apply for partial sale of shares
- Make an election to deem a disposal to take place
 - Dry tax charge as no proceeds to fund tax payment so
- Possible to make a 2nd election to postpone the deemed gain until actual disposal.

Entrepreneurs' relief – dilution example

- Angela pays £20k for 20k £1 ord shares in a trading company of which she is director = this gives her 10% of ord share + voting rights.
- Co. raises capital by issuing 1.8m new £1 ord shares – dilutes her shareholding to 1%
- Shares immediately before refinancing – qualify for ER
- Shares after refinancing – no longer qualify for ER
- Elect to crystallise gain to capture ER
- Elect again to defer crystallised gain until actual sale

Investors' relief

- Applies 10% CGT rate to certain share disposals
- Lifetime limit of £10m per individual
- Available to individuals or trustees
- Shares must be subscribed for and issued on or after 17 March 2016
- Shares must be unquoted
- Company must be trading company
- Restrictions on ability of investor to be employee/officer of company
- Shares must be held for 3 years

Budget October 2018 – Capital Gains Tax

- No changes to rates
- Annual exemption 2019/20: £12,000 (trustees £6,000)

Entrepreneurs' Relief

- Change to definition of personal service company: 5% of shares and voting rights.....extended to mean 5% of distributable profits and rights to assets on winding up (wef 29 October 2018)
- Qualifying period extended from 12 months to 2 years (wef 6 April 2019)

Inheritance Tax

- Relevant reliefs
- Business Property Relief
- Agricultural Property Relief

Inheritance Tax

- Business Property Relief = Relief from IHT at 50% or 100% on “relevant business property”
- 100%: A business or a share in a partnership, unquoted shares in a trading co, including AIM (but care needed)
- 50%: Quoted shares giving control, L&B or P&M used wholly or mainly for the purpose of the business of a company or partnership
- Various conditions and pitfalls mean planning is required

Inheritance Tax

- Agricultural Property Relief
- Based on agricultural values
- 100% on farmland if owned and farmed yourself for 2 years or
- Owned for 7 years and let on a post 30 Aug 1995 tenancy or have right to vacant possession with 24 months
- Relief restricted to 50% if let land prior to 1 September 1995 and lease has >2 years left to run

Inheritance Tax

- Agricultural Property Relief
- ‘Agricultural purposes’
- Various pitfalls including agricultural buildings
- Diversification and interaction with BPR

Case law

- The personal representatives of Mrs Grace Joyce Graham
 - Business property relief for holiday lets
 - A spectrum of activities between investment and trading
 - Emphasis on services provided
 - Contrast with *Ross* case
- The personal representatives of Maureen Vigne
 - BPR for livery business
 - Emphasis on services provided

Your speaker today:



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