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Reliefs from Inheritance Tax
Key Information

Reliefs from Inheritance Tax explained

This information sheet focuses on some of the reliefs that can reduce the value of your estate for the purposes of inheritance tax (IHT). Details of the reliefs, conditions and planning opportunities are outlined below.

Business and Agricultural Property Relief

Business and Agricultural Property Relief are available on transfers occurring during lifetime or on death of relevant business property or agricultural property respectively. Providing that the conditions outlined below are met, the relief is given at the following rates for transfers.

Income options	Amount	Property
Business Property Relief	100%	• A business or an interest in a business. • Unquoted securities (e.g. debentures) which give control* of a business. • A holding of unquoted shares in a company (including shares listed on the Alternative Investment Market).
	50%	• Shares or securities giving control* of a quoted company. • Land, buildings or machinery in a controlled company or partnership where the owner is a partner.
Agricultural Property Relief	100%	• For the agricultural value of farmland, including farmland under certain tenancies which commenced after 31 August 1995. **NB there may be transitional relief available for tenancies commencing pre 10 March 1981.**
	50%	• For the agricultural value of most other tenanted agricultural land subject to restrictions.

*Control for these purposes means the holding of the majority of votes in a business i.e. 25%.

Conditions for Agricultural and Business Property Relief

Providing that the property meets the following conditions relief should be available. These conditions are outlined below:

- Relevant business property

  If the business is primarily used for trading purposes then it should benefit from relief. No relief is available if the business consists wholly or mainly of dealing in securities, stocks and shares, land or buildings or in making or holding investments. Relief is typically not available for lettings of land and buildings.

- Agricultural property

  For the purposes of the relief, agricultural property must be in the UK, Channel Islands or the Isle of Man.

The term means agricultural land or pasture and includes; any farmhouses, cottages or buildings of an appropriate character and occupied for agricultural purposes; woodlands and buildings used for intensive rearing of livestock; growing crops, where transferred with the land; stud farms engaged in the breeding and rearing of horses; land and buildings (transfers after 6 April 1995) used in the cultivation of short rotation coppice and any land within a habitat scheme (transfers after 26 November 1996). Below is a case study which shows the distinction.

Case study

Imagine two similar 600 acre farms side by side, each owned by an elderly gentleman. Each farmhouse is a substantial building but of a character appropriate to the size of the farm and is worth over £700,000. The first farm is owned by Mr Jones who two years ago retired from business in the City and fulfilled his lifelong dream to own his own farm. He employs a farm manager who carries out most of the day to day running of the farm.

The second farm is owned by Mr Smith who has lived there all his life, the property has been in his family for generations. As Mr Smith has become unable to work he decides to let the farm for about five years.

Who is better off with regards to IHT?

Mr Jones is likely to pay no IHT as HMRC will treat him as a farmer and the farmhouse as part of the farm, both will attract 100% Agricultural Property Relief. Mr Smith will not be treated as a farmer therefore the land will attract 100% Agricultural Property Relief but not the farmhouse. Therefore any farmer retiring or selling his land should take specialist tax advice.

- Minimum period of ownership

  Basically this means that property typically needs to be owned by the transferor throughout the two year period preceding the transfer. Agricultural property will need to be occupied by the transferee for a period of seven years for the relief to be given. When gifting assets that qualify for these reliefs, care must be taken to ensure that the original property or any replacement property must continue to qualify for the relief in the seven years following the transfer.

  There is no requirement to retain the original asset during this period although certain conditions do apply. E.g. if A gifts property to B and dies after 5 years, B must still own the original property or replacement property which also qualifies for relief, for the relief to be granted on the original gift.

- Binding contract for sale

  When businesses or farms are jointly owned, arrangements may have been put in place for the surviving owner to purchase the property from the deceased's family. If this arrangement involves a binding contract for sale then the relief will be lost. See below for alternative planning options to pass property on in this way.

Woodland Relief

In addition to the widely available reliefs detailed previously, a special IHT deferral relief is available in respect of woodland. If woodland does not benefit from Business Property Relief or the conditional exemption for national heritage property it may benefit from Woodland Relief.

When woodland in the UK is transferred on death, the person who would be liable for the tax can elect to have the value of the timber, that is, the trees excluded from the deceased's estate. If the timber is later disposed of its value at that time will be subject to IHT.

Planning opportunities

Making full use of these reliefs is key. There are a number of routes available some of which are outlined below:

- AIM

  If you invest in shares listed on the Alternative Investment Market (AIM) and the companies qualify under the conditions above, these shares will benefit from 100% relief from IHT after two years. Should you not survive this minimum period of ownership, an IHT advantage may still be achieved as any tax due could be spread over a period of ten years.

- Investing in your children's business

  If you wish to pass wealth onto individuals such as your children who own their own businesses you may wish to consider investing in their business rather than making a gift. The reason for this is that any holding in any qualifying business, however small, will attract 100% relief from IHT if held for two years or more.

  Therefore this will enable you to pass the share on to your child free of IHT.

- Use it or lose it – crystallising the reliefs during your lifetime

  Given the current generous level of reliefs, you may wish to consider utilising both Business Property Relief and Agricultural Property Relief while the reliefs are still available.

This can be achieved through lifetime trusts whereby you could transfer your interest in a business into a trust, by doing this you could retain control of the interest and ensure that the conditions necessary to allow the exemptions are adhered to. When contemplating making a gift, consideration must be given to the implications of Capital Gains Tax.

- Will planning

  With regards to Will planning, property eligible for 100% relief should ideally not be left to the surviving spouse/civil partner. Instead it should be specifically gifted in the Will and not included as part of the residue where this is passing to a spouse/civil partner.

- Business trust

  Co-proprietors of a business may wish to pass their business on to one another but allow their families to benefit from the value of the business. They may also wish to utilise Business Property Relief.

  In these circumstances a Business Trust could be used. It involves placing a life assurance plan in trust and is designed to ensure that co-proprietors have the required funds available to purchase the stake in the business from the deceased's beneficiaries. A special agreement should also be used to ensure that there is no binding contract for sale.

Important

Wills and trusts are not regulated by the Financial Conduct Authority.

The levels and bases of taxation and reliefs from taxation can change at any time and are dependent on individual circumstances.

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