



## Specialist Business Tax Report Following the October 2024 Budget

### IHT Business & Agricultural Property

The easy path to inheritance tax planning and BPR/APR until 30 October 2024 could be summarised as follows. ***“Simply assume that you will qualify for 100% relief from inheritance tax on your demise without taking serious professional advice, so you have every incentive to hang onto assets until the bitter end.”***

This happy state of affairs has now ended! If you wish to mitigate inheritance tax you will need to actually do something and take it seriously, by which I mean serious thinking, ... which is probably not a bad thing at all....and there is only a relatively short time frame to take advantage of the existing 100% relief!

Under existing legislation, there is no particular tax benefit to making gifts of business or agricultural assets during one's lifetime apart from establishing a clear cut succession which should never be overlooked. Indeed, there has been a potent capital gains tax benefit to holding business assets until death. On death, the assets have passed to family members relieved from inheritance tax and rebased for capital gains tax purposes (i.e. all historic gains are wiped out). This double benefit could be said to have disincentivised lifetime gifts.

The new regime heralded (but not executed) in in the October 2024 budget creates a significant shift in these dynamics. This is best illustrated by looking at the possible IHT outcomes of three options:

1. **Holding assets until death** will now result in an effective inheritance charge of 20% on business or agricultural assets over £1m. Business property relief will continue to be the more comprehensive or attractive relief, for a number of reasons. Assets will continue to be rebased on death for CGT purposes. Much previous planning concerned, and should still concern, meeting the 'wholly and mainly' provisions of IHTA 1984 and s. 112 (excepted assets) pertaining disallowing investments built up in the company including undistributed cash. Important work was also undertaken on rectifying group structures where relief was potentially compromised in whole or in part by unfortunate holding company activities with an eye on IHTA 1984 s.111. This type of planning remains very relevant going forward.
2. **Making an outright gift during lifetime**

If the donor survives seven years, there will be no inheritance tax at all. Capital gains can often be held over on gifts of agricultural and business assets, meaning that although the gains remain capable of being brought into charge at a future date, no charge is triggered on the gift itself.

However, this will result in the same outcome as the treatment on death if the donor dies within seven years (although tapering of the tax after three years remains).

3. **Making a gift into trust during lifetime** will result in an upfront effective inheritance tax charge of 10% (i.e. at the lifetime rate) on business or agricultural assets over £1m from 6 April 2026. Any gains can be held over. If the donor survives the gift by seven years, no further inheritance tax will become due at all. If they die within seven years, another 10% IHT will be due on the value in excess over £1m, making the end result the same as under scenario 1.

### **What does this mean?**

Clearly, then, business owners and farmers are now incentivised to make lifetime gifts as the potential prize should they survive seven years is much. This is much better than paying 20% on the value over £1m should they continue to own the assets until death.

Outright gifts to family members involved in the business are most attractive as this should avoid inheritance tax altogether provided the gift is survived by seven years.

Trusts for these assets are likely to become less attractive, with (after April 2026, subject to what the consultation proposes) a 10% entry charge for those who want to benefit from the longer-term protection offered by trusts (which are well suited to holding multi-generational assets), as well as an effective 3% charge every 10 years on agricultural and business assets.

In a nutshell we are talking about a potential succession plan, subject to these being appropriate and subject to the wider family dynamics. By gifts, I am referring to those involving company shares and of bringing family members into an existing company or family partnership.

There is a short window of opportunity between 30 October 2024 and 6 April 2026 to transfer relevant property and capitalise on an unlimited 100% relief, subject to what is said above on trusts. Planning is still essential after this date but with likely up front tax implications.

If you estimate your business to be worth over £1m then you would be potentially liable for IHT of £200,000 for every £1m above that without planning. So, a £5m business would suffer potential IHT of £800,000. How would that sum be paid within six months of your death? Could it be paid? Could be even more if you have been used to rolling up profits in the business so it is top heavy with investments?

The first step is to gather the essential information required as every situation is now entirely dependant on each individual circumstances.

## **WHAT I NEED TO PREPARE YOUR INHERITANCE TAX REPORT**

### **About You & Your Family**

A brief note (one to four A4 pages) setting down family circumstances, concerns & worries as well as the objectives which should be taken into account in deliberations. A brief family tree and dates of birth of relevant individuals as well as who is involved in the business.

A written statement of the owners' likely intentions with respect to business succession.

### **About Your Estate and That of Your Spouse or Civil Partner**

Information for each spouse or civil partner:

- Details of each asset (property, investments, savings, chattels):
  - A brief description of the asset.
  - It's current value (including basis for valuation).
  - It's date and cost of acquisition.
  - The date and cost of any enhancement expenditure.
  - Details of the legal and beneficial ownership of the asset.
- A copy of your latest Will and that of your spouse or civil partner.
- Your latest self-assessment calculations (probably to 5th April 2024).
- A copy of the latest accounts available for trading businesses where appropriate.
- Identify any cash, investments and non-business assets on the balance sheet.
- Copies of Articles (if these are bespoke), a copy of any shareholders agreement and the last confirmation statement or partnership agreement if relevant.
- Details of any life assurance policies (provider, account number, copy deeds).
- Details of any gifts made to individuals or trusts in the last 14 years (date and value transferred and name of recipient).

## Why Me?

I have over 40 years' experience in trust and private client taxation working within firms of accountants, law firms and tax consultancies at a senior level as well as 15 years running my own practice. Having worked in the private client departments of two Legal 500 firms I am well used to painstakingly and critically reviewing clauses in wills, trust deeds and other documents on a regular basis to achieve tax advantage for my clients. I continue to seamlessly work with and alongside accountants and law firms to assist their clients in my specialist field.

I provide technical written support for Lexis PSL (which is used by 88 out of 100 law firms for tax, legal and technical research) and I am regularly nominated by the ICAEW as one of their top online influencers. I am an author of various books on private client matters including Inheritance tax.

I am a Chartered Tax Adviser (CTA), a Fellow of the Association of Tax Technicians (ATT) and a Trust & Estate Practitioner (TEP).

