

## INHERITANCE TAX RELIEFS

### Agricultural property relief

"Agricultural property relief" is given on gifts or inheritances of agricultural property. This includes agricultural land, pasture, cottages, farm buildings, and farmhouses which are appropriate to the holding. Revenue have taken a strict approach as to what is "appropriate" and frequently attempt to deny relief.

Relief is given against the "agricultural value". This is the value of the property as if it was prohibited from being used other than as agricultural land. The element of value attributable to possible development or mineral deposits would therefore not qualify.

Agricultural property relief applies to property which has been occupied by the transferor (the deceased or person making the gift) for agriculture throughout the two years before the transfer. Alternatively, if the property has been owned by the transferor through a seven year period and has been occupied by somebody else for agriculture throughout the seven years, relief is also available. Periods of occupation by deceased's spouse can be included for this purpose.

There are two classes of relief. 100% relief is available where the transferor has had the right to possession of the land immediately before the transfer or within 24 months. This also applies where the property is let on an agricultural tenancy after 1995. 50% relief applies to other qualifying agricultural property. The effect is to take the asset wholly out of the equation in computing Inheritance Tax where 100% relief applies and to take half the value out of the equation where the reduced rate applies.

### **Business Property Relief**

"Business property relief" reduces the value of transfers of certain business property by 100% or 50%. 100% relief is available for business assets, partnership assets, shares in an unquoted company or investment companies on the unlisted securities market (not on the Stock Exchange). The Alternative Investment Market (AIM) which is deemed unquoted for this purpose. A deduction of 50% value is allowed for certain other assets.

Relief is not generally available for shares quoted on a Stock Exchange. 50% relief is available for lands, buildings, machinery, plant owned by the transferor used by the partnership of which he is a member or has control. This is property must have been owned by the transferor for at least two years immediately prior to the transfer.

Where spouse inherits business property, this will count towards the two years' qualification period. This exception does not apply to lifetime transfers to the spouse. Where Inheritance Tax arises as a result of a death within seven years of a transfer to trustees, then relief will still apply provided the transferees still owns the asset (or replacement qualifying asset) at the date of death of the transferor or if earlier on the transferees own death and the asset qualified as business property immediately before the transferor's death.

### **Post-Death Reorganisation**

English Inheritance Tax provides a useful mechanism by which beneficiaries and trustees can re-arrange the terms of a will after death by agreement of them all. This has the advantage of allowing a will to be rearranged so that a more favourable inheritance tax result ensues. It allows beneficiaries to redirect benefits to other members of the family who are less well provided for. It is also possible to disclaim benefits so that they are passed down by a child to a grandchild without a double charge of taxation.

If the variation is agreed it is treated as if the new arrangement was in the deceased's will or arose at intestacy law. Inheritance Tax applies on the basis of the amended variations but the beneficiary who redirects the benefit suffers no tax consequence. The variation must be undertaken in writing within two years of the deceased's death. It must state that a certain section of the Inheritance Tax Act applies before it applies to it.

A disclaimer is where a benefit is not accepted under a will or intestacy. In this situation the law determines what will happen with the benefit. Under a variation greater possibilities are allowed. The beneficiary may re-distribute the benefit to the desired substituted beneficiary.

### **Trusts for Bereaved Minors and other young people**

Trusts for bereaved minors qualify for special Inheritance Tax reliefs. This kind of trust can be set up under a will of a parent or under a deed of variation of a will. A bereaved minor is one who has not yet reached the age of 18 and at least one of whose parents have died. The parent can include a step-parent. Certain of the taxes that would otherwise apply to trusts do not apply. It is not a complete tax exemption.

There are certain conditions attached. As long as the minor is living and under 18 the income and property must be applied for the benefit of the minor only. Upon reaching the age of 18 the minor must become absolutely entitled to the assets. There is no additional charge to Inheritance Tax where the bereaved minor becomes absolute owner of the assets before the age of 18 or if the assets are applied for the maintenance of the bereaved minor or the bereaved minor dies before reaching 18.

There is a similar, but lesser relief where trusts are provided for certain special young persons aged 18 to 25. The beneficiary must receive absolute ownership on or before 25<sup>th</sup> birthday. Conditions apply. As long as the beneficiary is alive and under the age of 25 they must be entitled to all of the income and if any property supplied for the benefit of the beneficiary it must be applied for the benefit of the beneficiary. Where this relief applies inheritance tax on the payment out of assets is calculated by reference to



the number of quarters that have passed since the beneficiary attained 18. The rate is calculated by reference to the historic value of the settlement. There is no ten year anniversary charge.

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This Guide is intended as an overview and broad outline of the matters covered in it. Its purpose is to inform and raise awareness. We are happy to offer specific legal advice on particular circumstances.

This Guide should not be relied on as a substitute for comprehensive legal advice with reference to the particular circumstances.

While we have taken due care in the preparation of this publication, we do not accept legal liability as a result of any reliance placed on anything in this Guide. The reader should rely only on specific legal or taxation advice.

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