Inheritance tax (IHT) reliefs

There are reliefs available which reduce the charge to IHT, both for transfers as a result of lifetime gifts and on death, provided that the relevant conditions are met. The most common such reliefs are agricultural property relief (APR) and business property relief (BPR).

Agricultural property relief

This is a relief on transfers of agricultural property held in the European Economic Area. Agricultural property can include any of the following:

a) agricultural land and pasture;

b) woodland occupied with agricultural land or pasture;

c) buildings used in connection with the intensive rearing of livestock or fish;

d) farm cottages;

e) farm buildings; and

f) farmhouses.

Whilst the list above details property that may qualify for APR, it would only do so if it were being used for the purposes of agriculture at the time of the transfer. Whilst a house may have traditionally been a farmhouse, it would only be agricultural property if it were occupied by a farmer and used for the purposes of running the farm (APR on farmhouses is a very complicated area on which there has been much case law).

Land on which horses are kept for recreational use would not qualify as agricultural property. Breeding and rearing of horses on a stud farm is however considered to constitute agricultural use and if land is occupied by horses that work on a farm, it would also qualify.

For APR to apply on a transfer there is a qualifying ownership period for the agricultural property of two years if it is occupied by the transferor or seven years if it is occupied by somebody else, such as a tenant farmer.

The relief will be at 100% (with the exception of some land originally let before 1 September 1995 where the relief will be at 50%) of the agricultural value of the property. Agricultural value is the amount that the land would be worth if it were subject to a permanent restriction prohibiting non-agricultural use and may therefore be lower than the full market value. In this circumstance BPR could be available to relieve the remaining value.

Business property relief

To qualify for BPR the property must fall within the definition of ‘relevant business property’ which includes:

a) a business or interest in a business;

b) unquoted securities of a company, giving control;

c) unquoted shares in a company (including those listed on the Alternative Investment Market);

d) quoted shares giving control of a company;

e) land, buildings, machinery or plant used wholly or mainly for the purposes of a business carried on by a company controlled by the transferor or by a partnership of which he was a member; and

f) land, buildings, machinery or plant used wholly or mainly for the purposes of a business carried on by the transferor, where the property is held in a trust in which the transferor was entitled to an interest in possession at the time of the transfer.

The donor or deceased business property owner must have owned the business property for at least two years before the transfer and the business must be a trading business. If the business consists wholly or mainly of making or holding investments or dealing in land, buildings, securities stocks or shares, the transfer will not qualify for BPR.

The level of relief that is available depends on the type of business property owned. If the business property falls within categories (a) to (c) shown above, the property would qualify for 100% relief. Property falling within categories (d) to (f) would only qualify for 50% relief. It is therefore important that the ownership of property used by a business is organized in such a way so as to maximize the relief available.

The value of any assets held in a business which are not used wholly or mainly for the purposes of the business or required for its future use could be excluded from the relief.

Generally if binding contracts for sale have been entered into at the time of the transfer neither APR or BPR would be available. The legislation also contains provisions relating to the reliefs covering the requirement for any agricultural or business property to be still held by the donee if the donor dies within seven years of the gift, and the position on successive transfers and replacements of relievable property.

Where the APR or BPR conditions are met, a lifetime gift could crystallise the relief at the time that it is available. If the potential donor's circumstances were likely to change so that the relief might not apply in the future, it could be a sensible IHT mitigation plan to give the property away sooner rather than later in order to secure the relief.

For further information please get in touch with your usual Lodders contact or via:

Stratford upon Avon office – 01789 293259
Henley in Arden office – 01564 792261
Cheltenham office – 01242 228370