Sector Focus:
Inheritance Tax

Nil Rate Bands

Inheritance Tax (IHT) applies on a deceased person's estate as soon as it exceeds £325,000; at a level of 40% of the excess over that figure. A husband can transfer his allowance to his wife and vice versa so the total allowance between couples is £650,000. Gifts between spouses do not attract IHT, therefore, the nil rate band on the first death is described as transferable. From 2017-2021 the nil-rate band will be increased in steps to give an individual £500,000 and a couple £1million tax free, to pass on. The down-side is that there will be tapered withdrawl of the additional nil-rate band for estates with a net value of more than £2million (before any reliefs are applied).

Agricultural Property Relief

Agricultural Property Relief (APR) and Business Property Relief (BPR) are very valuable tools in minimising the amount of IHT payable on death or on lifetime gifts to trusts.

Farmland typically attracts 100% APR, this includes land let under a Tenancy which started after 1995 or a Grazing Agreement. If a tenancy started before 1995 then 50% relief is available.

Complexity can arise when land has a value above that of purely agricultural use: a farm zoned for housing could be valued many times higher than farm land. The APR only covers the agricultural value of the land: IHT could be due on the difference, even if the land continues to be used for farming (BPR at 50% may be applicable).

Farmhouses and farm cottages can also receive 100% APR if the properties are an integral part of the farm, but they must be occupied for the purpose of farming. E.g. if an elderly farmer goes into a residential home, then the farmhouse is no longer occupied for agricultural purposes even if it had been occupied by him for most of his life. Farm cottages which are let out to third parties also fall outside the scope of APR.

Business Property Relief

Where APR is not available in full, BPR may apply. Relevant business property can be relieved at 100% (businesses, interests in businesses and shares in unquoted companies) or 50% (land, buildings and plant owned by the person making the transfer and used by a company he/she controls or a partnership of which he/she is a member) depending upon all the circumstances involved.

Potentially Exempt Transfers (PET)

If the value of an estate (after reliefs have been applied) is likely to be above £650,000 and thus subject to IHT, there is an option known as a Potentially Exempt Transfer or a PET. This involves gifting assets to the future heirs of an estate, and, if the donor survives for 7 years, there is no tax to pay whatsoever.

If the individual making the gift dies during the 7 years and the gift was sufficient to exhaust the nil rate band, tax should be due according to the following:

If death occurs within the first 3 years after the transfer there will be 100% of the tax due.

If death occurs between years 3 and 4 then only 80% of the tax will be due

If death occurs between years 4 and 5 then only 60% of the tax will be due

If death occurs between years 5 and 6 then only 40% of the tax will be due

Finally if death occurs between years 6 and 7 only 20% of the tax would be due.

Adapted table from: www.gov.uk

In 2010 a Compliance Unit was set up by HMRC to check tax returns. In the past a number of claims for Agricultural Relief may have gone through because the Revenue was too busy to check. However, the creation of the Compliance Unit has resulted in a greater number of challenges against claims for APR.

Most ordinary working farms are able to pass from parent to child without Inheritance Tax being paid. However, it is too late carry out tax planning after you have died! A little bit of time spent reviewing your affairs in a timely manner could make a significant difference to the following generation.

The information provided here does not provide the full detail for IHT planning. Please discuss your individual needs with a tax specialist.

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