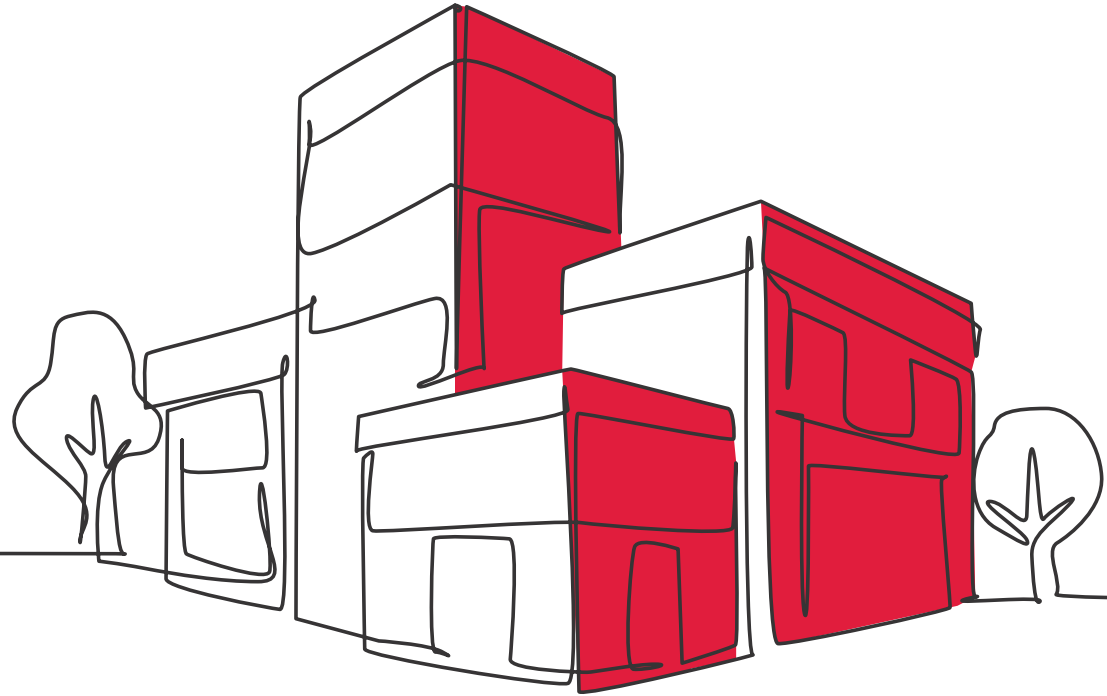


Oury Clark Quick Guides:



Business Property Relief



Business property relief (BPR) can be a very valuable relief in reducing a charge to Inheritance Tax (IHT) on death or on transfer into trust during an individual's lifetime.



For an asset to qualify for BPR it must:

- have been held for at least 2 years prior to the transfer or date of death
- be 'relevant business property' and
- the business must be mainly trading (as opposed to investment)

Relevant business property

Rate of relief Types of Business Property

	<hr/> <p>Unquoted shares in a company. Shares listed on the AIM market are treated as unquoted shares for the purpose of BPR.</p> <hr/>
100%	<p>Loan notes to an unquoted trading company controlled by the individual.</p> <hr/> <p>A Partner's share in a partnership.</p> <hr/> <p>Property consisting of a business such as a sole tradership. The property can include the value of assets used within the business less the liabilities of the business.</p> <hr/>
	<p>Shares or loan notes of a quoted company controlled by the individual.</p> <hr/>
50%	<p>Assets used for business purposes in a trading company controlled by the individual.</p> <hr/> <p>Assets used for business purposes in a partnership in which the individual is/was a partner.</p> <hr/> <p>Assets which are owned by a trust used for a business purpose run by either the life tenant or the trustees depending on the trust type.</p> <hr/>

Let us Introduce Ourselves



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Disclaimer: This note does not contain a full statement of the law and it does not constitute legal advice. Please contact us if you have any questions about the information set out above.

Withdrawal of BPR

BPR may not be available in certain circumstances:

- The excluded business rule – if the property is used in a business that consists wholly or mainly of dealing in loan notes, shares, land or buildings or making or holding investments. (Genuine property development business should qualify as this is not an investment activity and there are special rules for holding companies – see below).
- If there is a binding contract for sale – care should be taken particularly with shareholder or partnership agreements which require the executors to sell the deceased's shares to the surviving partners or shareholders as this would most likely fall foul of these rules.
- Companies in liquidation do not qualify for BPR unless the liquidation is part of a reconstruction.

The amount of BPR available may be reduced in situations where the value of the business property is attributable to assets not used wholly or mainly for business purposes within the two years prior to the transfer or required at the time of the transfer for future use in the business. The most common example of such an asset would be excess cash held within a trading company which is not specifically earmarked for a future defined short-term business purpose.

Holding Companies

Holding Companies are regularly viewed as investment companies however if the group is essentially a trading group there is still scope for BPR by looking through the holding company to the activities of the underlying subsidiaries.

Furnished Holiday Lets

One rather hotly contested industry within the courts in relation to BPR is the furnished holiday let business. There are no set criteria to determine whether BPR would be available, rather each case needs to be considered based on its own facts. There needs to be an exceptional level of additional services and facilities provided to the tenants for HMRC to accept a BPR claim against the value of such a business. Services provided would include cleaning, entertainment, provision of meals, personal welcome and tour guiding etc.