Oury Clark Quick Guides:

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Inheritance Tax

Tax: B22

Inheritance tax (IHT) is charged on the gifting of assets by individuals during their lifetime and at death. A UK domiciliary is taxable on their worldwide assets whereas a non-domiciliary is taxed only on their UK situs assets.

Individuals who have been resident in the UK for 15 tax years are classified as UK domiciled from the beginning of the 16th tax year.

All lifetime transfers are treated as potentially exempt transfers (PETs) unless the transfer is to a trust in which case it is a chargeable transfer.

The rate of tax is 40% on transfers at death and 20% on chargeable lifetime transfers.

Exemptions:

- All transfers where the donor survives 7 years from the date of the gift are wholly exempt unless it is a transfer to a trust.
- Transfers up to a value of £325,000 (the nil rate band - NRB) per person are charged at 0%. The amount of any spouse's unused NRB at death can be claimed by the surviving spouse.
- For estates of less than £2m an additional NRB of £175,000 is available for main residences.
- Annual exemption of £3,000. Unused exemptions can be carried forward one year.
- Small gifts under £250 per recipient.
- Normal expenditure out of income is not treated as a transfer of value. The donor needs to have sufficient retained income to live and maintain their lifestyle. Any gifts out of surplus income must form a regular pattern.
- Gifts in consideration of marriage, depending upon relationship between donor and recipient, between £1,000 and £5,000.
- Transfers to a spouse are wholly exempt unless the donee spouse is not domiciled in the UK in which case the exemption is restricted to £325,000.
- Gifts to registered charities and political parties are wholly exempt.

Reliefs:

There are two key reliefs for IHT, one for Business Property and one for Agricultural Property, both of which give relief at either 50% or 100%.

Business Property Relief (BPR)

50% relief for:

- Shares in a listed company transferred by a controlling shareholder.
- Assets used in a company controlled by the transferor.

100% relief for:

- Shares in an unlisted trading company.
- Business carried on by a sole trader.
- Interest in a business, e.g. share in a partnership.

Agricultural Property Relief (APR)

50% relief for Certain tenanted agricultural land where vacant possession cannot be attained within 24 months.

100% relief for Agricultural land, except as described above.

There are a lot of conditions attached to the above reliefs, for further information please see our dedicated BPR and APR quick guides.

Potentially exempt transfers (PETs):

A PET is a transfer that will be subject to IHT if the transferor dies within seven years of the transfer. This prevents tax being avoided by individuals gifting their assets in the period before death.

Transfers of an asset where the transferor retains any form of benefit from the gifted asset are completely ineffective. These are called gifts with reservation and are added back in the death estate calculation.

Gifts may also be subject to capital gains tax based on the market value at the date of the gift, so careful consideration is needed before attempting to mitigate IHT by way of gifts of assets. However, if planned carefully, gifting assets in your lifetime can be a very effective way of minimising IHT.

Please find our other useful guides here:

Why Make A Will

Estate Administration - What is Involved

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