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New rules on IHT - Why family businesses must act now

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As we approach the end of the tax year, many family business owners and their boards are considering how the changes to Business Property Relief (BPR) and Agricultural Property Relief (APR) from Inheritance Tax (IHT) will affect them.

A new IHT charge on trading assets passing to heirs when a shareholder dies will apply for the first time in 30 years. The charge will also apply to trusts every 10 years (with some exceptions relating to trusts for spouses and vulnerable people) and gifts made within 7 years of the death of a shareholder.

The areas we highlight here focus on the key tax and other related steps all family business owners should be considering. They are not limited to just businesses qualifying for BPR but to all owners, including those with property and other investment businesses.

Careful planning is needed. And steps should be taken now.

1. Make a Will or review your existing Will

Putting a Will in place or reviewing your existing Will is essential. Given the transferability of the new £2.5m BPR allowance (with spouses able to share their individual allowances), married couples and civil partners can leave £5 million of eligible assets in addition to using any other allowances such as the Nil Rate Band and Transferable Nil Rate Band, if structured correctly.

Reviewing shareholder agreements, articles of association and partnership agreements will also be important to ensure that business interests are capable of being passed to a spouse in your Will - not always a given.

2. Record your wishes

Taking time to consider the impact of your wishes but also recording them in a way which comes across as authentic and realistic is time very well spent.

We are seeing an increasingly imaginative approach to ensuring all stakeholders know the wishes of the family business owners including letters of wishes being recorded as videos, statements of family values ranging from a single page to many chapters and the use of far more vernacular language reflecting the voice of the author rather than their legal advisers.

Remember that wishes can change over time so should be updated regularly – we recommend every five years.

3. Understand mental incapacity

The loss of mental capacity to make a business decision can cause real and sometimes lasting impact to the future of your family business (and other assets outside of the business).

Since 2007, a modern system of Lasting Powers of Attorneys gives you the opportunity to choose who can manage affairs if you are unable to do so yourself. Familiarise yourself with how these documents work, discuss them with your legal advisers, your family and also your business board.

Don't forget that an LPA cannot manage the loss of capacity of a Director of a company. Review your articles or shareholders agreement to see what happens if one of your directors loses capacity, which could just as easily be due to an unforeseen incident as a degenerative age related condition. Planning for this scenario is a critical part of your business continuity.

4. Talk to the business

In the months since the October 2024 Budget we have seen an increase in boards of family businesses asking what the tax changes mean for the directors or other senior stakeholders. Succession to the business ownership is inextricably connected to those conversations.

From the need to fund a new IHT charge via a special dividend or share buyback to the terms of a new family trust or Will, the inclusion of spouses as potential shareholders or beneficiaries of trusts or the need for better communication with shareholders, these conversations are critically important to the future of the businesses.

This does not mean 'washing the family laundry' in public, but with thought and a sensible degree of openness can be hugely beneficial.

5. Take regular advice

If your family wishes to change direction and perhaps accelerate succession or even change the business ownership structure, then talking to your board or senior management at the right time is important.

You should consider employing a facilitator to help you frame the discussions – this could be a trusted existing adviser or someone completely new. In either event, being open about the possibilities tends to stand families and their boards in good stead.

6. Think about your pension

As the prospect of the new IHT charge looms, many of you will also be concerned about your pension funds. Along with your homes, these are likely to be one of the more significant non-business assets available to pass on to your family.

From 6 April 2027 these will be liable to IHT. Keep in touch with your financial advisers as details become clearer - likely in the second half of 2026. Being better informed about how the overall picture will look is the first and most important step to carrying out succession planning across the whole of your estate.

This is only a brief overview of key points to be thinking about both now and beyond the changes coming in April this year. As always, do take professional advice before undertaking planning but, above all, keep your lines of communication open both among the family and across the business.

This publication is a general summary of the law. It should not replace legal advice tailored to your specific circumstances.