AF1 IHT 2020/2021
Part 6 IHT Reliefs

A relief reduces the amount of IHT payable.

The milestones are to understand the workings of:

- Quick Succession relief.
- Business relief
- Agricultural Property relief
- Claiming a refund for overpaid IHT

Quick Succession Relief

QSR reduces the IHT liability on the estate of someone who recently received a legacy or gift on which IHT had been paid as in this case.

Mike left all his estate of £625,000 to his daughter Clara.
IHT of £120,000 was paid on Mike's estate so Clara received £505,000
Let's assume Clara died 10 months later her estate would have been increased by £505,000
If her estate was £600,000 the IHT liability would be £110,000
Effectively the legacy has been taxed twice, first on Mike's estate and then on Clara's

To avoid this Clara's executors can apply Quick Succession Relief (QSR) which reduces the estate's IHT liability. The reduction is calculated by this formula:

QSR = IHT paid on first death / Gross chargeable estate x value of asset gifted from first death

This is then reduced by a percentage depending on the time between the first and second death.

In Clara's case this would be £120,000/£625,000 x £505,000 = £96,960

As Clara died within 12 months of Mike the appropriate percentage is 100% so QSR reduces her estate's liability from £110,000 to £13,040. As time goes on the percentage reduces as follows.

1 year or less since death	100%
1-2 years since death	80%
2-3 years since death	60%
3-4 years since death	40%
4-5 years since death	20%
Over 5 years	0%

Therefore, if Clara died 3 ½ years after Mike the QSR would be £96,960 x 40% = £38,784
There are three conditions to get QSR.

- Clara (the recipient) had received a gift in the last five years.
- IHT had been payable on Mike's (the donor) estate
- Clara's estate has an IHT liability

There is no QSR where any one of these conditions isn't met.

Tom died leaving an estate of £800,000 split equally between his wife and daughter. If his wife dies within 5 years her estate cannot claim QSR because her share £400,000 was an exempt transfer.

If his daughter dies within 5 years the first two conditions were met as Tom's estate would have paid IHT on this gift and his daughter's executors could claim QSR if it had to pay IHT.

If his daughter left all her estate to her husband, QSR could not be claimed as it would be an exempt transfer so no IHT would be payable.

However, if she left all or part of it to her children and IHT was payable, QSR could be claimed.

Here's an example where the deceased's estate was passed to more than one beneficiary.

Helen and her brother John were the sole beneficiaries of their late father's estate Each received an equal share. This was £800,000, IHT of £190,000 was paid so Helen received £305,000

Helen died 2½ years later and her estate was £525,000.

The tax due was (£525,000 less £325,000) @ 40% = £80,000 but it qualifies for QSR

£190,000/£800,000 x £305,000 = £72,437.50
£72,437.50 x 60% = £43,462.50

Helen's IHT bill is £80,000 less £43,462.50 = £75,657.50

Here's a further example

Albie was one of a number of beneficiaries from his grandmother's estate. He received £100,000 Her total estate was £800,000 and IHT of £190,000 was payable.

If he were to die within 5 years the starting point for calculating QSR would be £190,000/£800,000 x £100,000 = £23,750

The formula uses the term Gross Chargeable Estate. For the avoidance of death this is the amount of the estate after any exempt transfers but before deduction of any Nil Rate Band.

Once you've spotted QSR is available in an exam question you would first calculate the IHT liability on the deceased's estate. You should then calculate the QSR and reduce the estate's liability by this figure. Note that QSR cannot be greater than the tax payable on the estate.

QSR also works if the recipient of a PET has a liability following the death of the donor.

Ian received a gift of £100,000 in July 2013, the donor died in June 2016 and because previous gifts had used up the donor's NRB Ian had an IHT liability of £40,000. Ian died in September 2019 and IHT was payable on his estate.

QSR would be:

£40,000/£100,000 x £60,000 =£24,000
£24,000 x 40% = £9,600

If the PET recipient's IHT liability had been reduced by taper relief then QSR must be calculated using the tax after taper relief

If in the previous example the donor had died in August 2016, the tax due would be reduced by 20% to £32,000. QSR would be:

£32,000/£100,000 x £68,000 = £21,760 x 40% = £8,704

Business Relief

Business assets aren't exempt but can qualify for Business Relief which allows a business to be passed to someone else either in life or on death free of Inheritance Tax. A business or a share in a business must first be included in an individual's estate. If it qualifies for 100% BR it is then effectively ignored.

Jack was self-employed and had an estate of £800,000 plus a business with a value of £400,000.

The calculation of the estate would be shown as follows:

Estate	£800,000
Business	£400,000
	£1,200,000
Less BR (100%)	£400,000
Estate	£800,000
Less NRB	£325,000
Taxable estate	£475,000

BR can be claimed at a 100% relief on:

- A business or an interest in a business
- Unlisted shares
- Shares traded on the Alternative Investment Market

It is given at 50% on

- Shares listed on a recognised stock market provided you own sufficient to give you control of the company
- Any land buildings, plant or machinery used wholly or mainly in the business during the last two years before the business was passed on.

In all cases the asset must have been held for two years.

It is always given at 50% regardless of the time of ownership for:

- Shares controlling more than 50% in a listed company
- Land, buildings, plant or machinery used in a business the deceased or a partner controlled at the time of death

BR cannot be claimed on:

- A business that deals mainly with securities or stocks and shares
- A business that deals mainly in land or buildings. (a business owning houses that are let out)
- A not for profit organisation

Losing BR

- If the business is sold, the owner loses BPR. This could be a factor when someone is coming to retirement.
- It is lost as soon as a binding agreement is made. An individual who walked out of his solicitor's office having signed the sale agreement and then died of a heart attack would lose BPR. Therefore Partnership agreements are usually on a cross option basis.
- It is lost as soon if you retire from a partnership.
- When a sole trader retires, there is no business and hence no BPR

BR on lifetime gifts.

If a business is gifted in life it is a PET and will become exempt if the donor survives for seven years. Should the donor die within seven years of the gift this would normally be chargeable However provided the new owner keeps it as a going concern (or in the case of a company the recipient still owns the shares) then BR will still apply. This means the gift will not reduce the deceased's NRB nor will the new owners be liable for any tax.

Agricultural Property Relief

The same principle applies as in BPR. Agricultural Property can be given away in life or on death and obtain either 100% or 50% relief depending on the circumstances.

Relief is available on:

- Agricultural land
- Farmhouse and other buildings used for agricultural purposes
- Growing crops when sold with the land

Relief is not available on:

- Farmhouses and cottages that are occupied by someone not employed in farming (unless they are their spouse are retired farm employees.)
- Farm machinery
- Livestock & harvested crops

Relief is available both if the owner farms the land themselves and if the owner rents the property as a farm.

- An owner occupier must have owned and farmed the land for two years to qualify for relief
- A landlord must have rented out the property for agricultural purposes for seven years.

- Relief is available at 100% if the owner farms the land or has rented it out since 31 August 1995
- Relief is available at 50% for tenancies taken out before that date.

That concludes this part so you should now understand the workings of:

- Quick Succession relief.
- Business Property relief
- Agricultural Property relief

Reclaiming overpaid IHT

IHT is payable six months after the individual's death and the amount due is calculated by using the value of the deceased's assets at date of death. However, if a beneficiary sells the asset for a lower price it may be possible to reclaim some of the tax. There are different rules for land and buildings, and what are termed qualifying investments.

Land and Buildings

Bob inherited his sister's house on her death. The value used in the IHT calculation was £450,000 and IHT of £50,000 was paid by the executors.

Bob had his own property so put his sister's house up for sale. Unfortunately the market was very quiet and it was eventually sold for £380,000. If that value had been used in calculating the IHT liability would have been £22,000.

Provided the sale took place within four years of his sister's death the executors can reclaim the overpayment of £28,000. They should submit form IHT 38 "claiming relief-loss on sale of land". HMRC use the term appropriate person(s) for the people who can sign this form. This are the people who paid the tax so would probably be the executors but could also be the administrators, trustees or the recipient of a lifetime gift. They can then pass the refund to the beneficiary(ies)

There must also be a minimum loss of the lesser of 5% of the value at date of death or £1,000

Other qualifying investments

These are:

- Shares and securities listed on a recognised investment scheme.
- UK Gilts
- Unit Trusts and OEICS

Unlisted shares or AIM shares don't qualify.

As with land/buildings if these are sold for a lower amount that was used to calculate the IHT liability the difference between the IHT paid and the IHT on the sale value can be reclaimed. This though must be done within 12 months of the death.

Jenny inherited a portfolio of shares with a probate value of £200,000 in November 2019. In the market fall of February/March 2020 these fell to £150,000. She decided to sell everything.

Assuming IHT on death was £80,000 whereas it would have been £60,000 on the sale value she could ask the executors to reclaim the £20,000 overpayment using form IHT35.

Jenny might then think it would make sense to invest the £150,000 into a new portfolio of investments but HMRC have anti-avoidance rules to make this unattractive. If **any qualifying investments** are purchased within two months of the sale this must be declared on IHT35 and the refunded amount will be reduced by the formula:

Purchase/Proceeds x loss

The resulting figure is deducted from the loss in value when the shares were sold.

Jenny decides to keep £75,000 of the proceeds in cash and invests £75,000 into a number of OEICS.

The relief would be reduced by:

£75,000/£150,000 x £50,000 = £25,000

The loss of £50,000 would be reduced by £25,000 to give £25,000.

The refund of IHT would be £25,000 x 40% = £10,000

Sources

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