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House of Lords Finance Bill Sub-committee call for evidence

Draft Finance Bill 2025-26

Reforming inheritance tax: unused pension fund and death benefits, and Reforms to agricultural property relief and business property relief

Response by the Chartered Institute of Taxation

1. Summary of key points

1.1. The Chartered Institute of Taxation (CIOT) is the leading professional body in the UK for advisers dealing with all aspects of taxation. We are a charity and our primary purpose is to promote education in taxation with a key aim of achieving a more efficient and less complex tax system for all. We draw on the experience of our 20,000 members, and extensive volunteer network, in providing our response.

1.2. The changes to the inheritance tax (IHT) treatment of pensions and business/agricultural property will place significant additional pressures and potential liabilities on personal representatives (PRs), both in relation to valuation, liquidity and incidence

1.3. Pensions: It is fundamentally unfair to both PRs and the free estate beneficiaries that a PR should be expected to pay IHT on a pension fund over which they will have no control and where they never receive the funds. At present the PR is rarely liable for IHT on assets which do not actually come into their hands. The proposals on pensions change this. HMRC indicated in consultation that in 75% of cases no IHT will arise but that still leaves 25% of cases where great hardship and unfairness could arise if the pension beneficiaries are materially different or receive different amounts from those beneficiaries of the free estate as will often be the case, and not simply in blended families.

1.4. The CIOT's preferred solution would be that the incidence of IHT should rest with the Pension Scheme Administrator (PSA) who has control over the pension fund and/or that a flat rate tax should instead apply to the pension fund. However, if these proposals are not accepted then our compromise proposal is that 50% would then be released if no IHT arises on the pension fund or would be paid to HMRC if PRs notify them of the correct pension liability. This would actually simplify the administration of pension funds more generally

and ensure that pension fund beneficiaries do not receive funds gross of IHT and net of income tax and then have to put in a claim for repayment of income tax. At least in the interim we suggest late payment interest and penalties are not imposed on PRs in relation to pension funds.

1.5. On business and agricultural property we would have favoured a longer consultation period to ensure that the reliefs could be simplified first before further complex changes are introduced. In addition, the testator should be given the ability to choose how the £1m allowance is allocated on death between different gifts of relievable property and similarly the trusts allowance should be more flexible so that if a trust loses the allowance because it is wound up or sells the business property that allowance is then used against other trusts that hold business assets. There is no need to attach the trust allowance permanently to one trust.

1.6. The valuation issues need streamlining perhaps with greater use of AI and more consultation on what would be helpful valuation principles between HMRC and taxpayers.

1.7. In order to assist on liquidity in funding the IHT on death for business property (given the overall tax rate could in practice be 34% rather than 20%) the government should consider looking at the share buyback provisions applicable on death.

1.8. The 8 per cent late interest charge imposed on PRs for payment of IHT after 6 months will also be of concern as it may be much harder to finalise the IHT bill in that period let alone pay it. Serious consideration should be given to changing the rules so that PRs do not have to pay the IHT, at least on pensions, before they obtain the grant of probate as they cannot usually deal with the assets until they have grant of probate and therefore raising the funds to pay IHT is difficult.

2. About us

2.1. The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.

2.2. The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.

2.3. The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries.

2.4. Our members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

Pensions: Reforming inheritance tax: unused pension funds and death benefits

Identifying inheritance tax due

3. How challenging will it be for personal representatives to identify and report inheritance tax due on unused pension funds and death benefits?

3.1. There has been great concern that PRs will now have to identify numerous different pension schemes, check values and ascertain who is to receive the pension fund (which may not be obvious immediately on death). Pension schemes should be under a statutory duty to provide the information to PRs within 3 months of notification of death if not sooner and to answer all follow up questions. It is often difficult to get information from pension schemes quickly particularly without the grant of probate which can only be obtained once all IHT has been paid including on the pension schemes! Hence there is a catch 22 situation. No instalment relief is available for IHT on the pension schemes. Hence the PRs have to establish all the necessary information including allocation of nil rate band (NRB) across all the free estate, trust assets and pension funds. If a new pension fund emerges at the last minute or after the estate has been wound up and distributed the calculations have to be redone and the PRs are personally liable for such tax even though the pension fund does not come under their control.

3.2. It would be far easier if the NRB was first allocated to the estate assets and the pension scheme was simply taxed at a flat rate (of, say, 30%) in the absence of any exemption or alternatively is always treated as the top part of the estate as used to be the case before 2011. This would mean that discovery of a new pension fund would not necessitate a complete recalculation of IHT across all components of free estate and pension fund.

3.3. Where the deceased died single with a house and pension fund they are very likely to have an estate over the nil rate band and residence nil rate band (RNRB) and some IHT will be payable.

3.4. PRs should not be liable for IHT on pension funds once they have the certificate of discharge. Late payment interest and penalties for PRs on pension funds should be suspended for a year until the process beds down.

4. What is your view of the Government's proposals to ensure personal representatives can obtain the information they need from pension providers? How practicable is it?

4.1. Pension Scheme Administrators (PSAs) need to be put under a statutory duty to provide timely information and to update it. There need to be practical measures to ensure that PRs can find out about pension schemes quickly. At present where someone, particularly in lower paid work, has moved jobs frequently and dies before retirement and before consolidating their pension funds it can be difficult to locate all pension funds. They may not have written them down at death and often no valuation information is regularly sent through on old pensions that enable the PRs to pick these up. What if a new pension scheme is identified say two years after death that results in new IHT? PRs need to be given access to the UK pension dashboard, which is expected to be available in October 2026, from the date of death (not simply when they have grant of probate – which is too late).

4.2. PRs and PSAs need to be both permitted and obliged to exchange all necessary information about the deceased and their pension beneficiaries including contact details, death and marriage certificates, tax and NI references so that they can resolve issues quickly. Often the pension process is lengthy at present because of the time it takes to get ID sorted. Pension schemes should have uniform procedures. The quality of administration and response by PSAs seems to vary considerably. HMRC could assist in this process.

Liquidity challenges

5. How significant will liquidity challenges be for personal representatives paying inheritance tax due on unused pension funds and death benefits?

5.1. Where the estate and pension fund are left to the same beneficiaries in the same proportions or are both spouse or charity exempt the position is less problematic. The PRs can just pay the IHT on everything out of the free estate and no one loses out. However, even then there are cash flow issues on income tax. But if the estate goes to different beneficiaries or the estate is insolvent or difficult to realise then matters get complicated quickly.

5.2. The spouse exemption also needs to be amended to ensure it is available even on a draw down fund or where the spouse receives an annuity.

Example 1. Tom dies over 75 and leaves his pension fund worth £1m to the children of his first marriage and the free estate worth £1m to the widow of his second marriage. Assume no NRB is available. £400,000 IHT is payable on the pension fund which has to be taken out of the free estate in the first instance. If the free estate mainly comprises a house the PRs will struggle to raise funds to pay the IHT without selling the house despite the fact that no tax is payable on the house due to spouse exemption.

The children of the first marriage may not be minded to direct the pension fund to pay the IHT or be prepared to reimburse the PRs if the latter pay it as they may not like the spouse of the second marriage. The PRs will have to sue them directly to recover the IHT. If there are four pension fund beneficiaries that means four separate legal actions. Moreover, if the fund is put in drawdown for the children the latter will not be vested with the funds directly to pay the IHT anyway. And the pension fund will suffer income tax on £1m. If the children do agree to reimburse the IHT to the PRs they can reclaim the income tax suffered on that part but that is another administrative hassle for the children and HMRC. By contrast if the pension fund deducts and accounts for the IHT on the pension fund directly then income tax will only be payable on the balance paid for the benefit of the children. The whole process runs much more smoothly.

6. How straightforward will it be for personal representatives to recover amounts in respect of inheritance tax from pension beneficiaries?

6.1. Much depends on the residence and financial status of the beneficiaries and whether they can benefit from the free estate. But it will certainly make it much harder for the PRs and potentially cause great unfairness to the beneficiaries of the free estate if they are different. There is no reason why the cash flow of the free estate should be so significantly disadvantaged compared with the pension fund. The PRs are already incurring all the hassle and cost of calculating pension IHT liabilities. Why should they be liable to pay the same as well? The PRs may well not be the same persons as the pension beneficiaries. Where the pension is to be paid into a trust the trustees cannot currently direct the PSAs to pay IHT and may not be able to reclaim income tax suffered on the pay-out.

6.2. If the pension beneficiary is in draw down on the pension or is left an annuity they may well not have the funds available to pay the IHT to the PRs. Again, this is a reason for a retention of IHT at source. So, a pension fund of £1m in draw down could have £400,000 IHT due on it but the pension beneficiary will not receive a lump sum of £1m in all cases. And where they do, they may have used it to pay off debts or be reluctant to reimburse the PRs.

7. What are your views on the Government's suggestions as to how personal representatives can manage any liquidity challenges? How else could the Government support personal representatives who face liquidity challenges?

7.1. We have suggested two changes. First that the only workable solution is to require the pension funds to deduct and retain 50 per cent of the pension fund and pay out the balance to the pension beneficiary unless it is clear that the pension fund beneficiary is exempt, eg a charity or spouse. The pension fund would only release the 50% once they had received notification from the PRs of the IHT liability and would have to pay any sum owing to HMRC or else reimburse the PRs for the tax on the pension fund they have paid on account. Any funds retained in that interim period by the pension scheme could grow free of tax just as if in drawdown.

7.2. Second, we have suggested that any IHT on pensions should be payable by instalments, to allow for the PRs having no control over the asset and the time that may be involved in liquidating any assets in the pension scheme to re-imburse the estate.

Impact

8. Has the Government sufficiently taken into account the impact of the measure on personal representatives and pension schemes administrators?

8.1. No. We think it would have been far simpler to have had a flat rate (of say, 30%) on pension funds going to non-exempt beneficiaries which the pension trustees would have imposed without further recourse to the PRs Alternatively tax the pension fund as the highest part of the estate as was the case before 2011. The impact of imposing not only the calculation but also the collection of IHT on pension funds on the PRs has been grossly underestimated and is likely to lead to firms refusing to act as professional executors. Why should they act given the risks? We anticipate this will be totally counter-productive for the collection of tax as more people act for themselves and don't have professionals to guide them on their correct tax liability. There are likely to be more underpayments of tax, whether innocently or not, especially as this is all going to be very complicated giving rise to misunderstanding.

8.2. The PRs get no instalment relief to pay the pension fund IHT, which would at least make the process less unmanageable, and are liable to interest at 8%.

Example 2. Assume an estate of £500k and a pension fund of £500k and for simplicity no available nil rate band. They must pay £200k IHT on the pension fund and £200k on the free estate – all out of the free estate – leaving £100k to distribute. The pension fund beneficiaries will receive £500k but with income tax imposed for deaths after 75. Too much tax is being paid upfront. (see 8.4 below).

8.3. The government proposals rely on pension beneficiaries directing PSAs to pay the tax, but in most cases the IHT will have had to be paid upfront within the six months. Where the free estate is small or the will is disputed or it takes time to get PRs appointed the difficulties are exacerbated.

8.4. The government proposals increase liquidity problems as if income tax is imposed on the payment out of the pension fund where IHT has been payable by the PRs, the beneficiary presumably has to actually repay the PRs the IHT and then make an income tax reclaim! (The existing legislation seems to allow the pension beneficiary to reclaim income tax even where they have not actually reimbursed the PRs.) All this could be avoided with a simple 50% retention while the IHT is being calculated.

8.5. Free estate beneficiaries will be pressing for some distribution and the PRs are personally liable if they get the calculations wrong, release the estate too early and then have to pay more IHT because another pension fund emerges. Without a requirement on the pension funds to deduct 50% before payment, except where spouse or charity exemption is in point, and retain that for up to two years PRs will simply refuse to distribute any of the estate. Moreover, a retention deals with the problem that IHT is payable on the full value of the pension fund on death, but the beneficiary may not have access to the full pension fund value if it is in drawdown and therefore this will ease cash flow for the beneficiary.

Implementation and transition

9. How aware of the proposals are those who may be affected by the proposed change? What more should the Government do to raise awareness ahead of April 2027

9.1. The proposed changes for PRs (see 6.1) will have huge consequences for the professions dealing with estate administration, especially solicitors but also some accountants, and this has not been widely appreciated. As the draft legislation, with this major change in putting the whole burden on PRs, only came out on 21 July, at the start of the holiday period, this has not been well recognised. There will be a major task to educate practitioners. The impact on the professional indemnity insurance market is likely to be significant, with the risk of insurers increasing premium costs, and the potential for some firms to lose cover for this work given the unquantifiable risks involved.

9.2. A fundamental change is needed by the Government on this issue. Apart from the retention problem, what if the pension fund is illiquid and assets cannot be sold quickly to raise the IHT? There is no loss relief so if, say, commercial property has to be sold quickly in a fire sale and at a loss from the death value, IHT is payable in full on the death value. Loss relief should be available as a matter of fairness, for any loss in value of an asset within a pension, such as shares or land, should be treated the same way as if in the free estate, with a claim for loss relief possible.

10. What are your views on the proposed timetable for the introduction of this measure? Do you think there should be any transitional provisions?

10.1. The timing to 2027 is acceptable if the legislation is correctly drafted and a retention on the pension fund is given. For example, at the moment it is not clear that spouse exemption properly applies under the legislation to all spousal transfers, eg those in draw down or where the spouse takes an interest in possession. The legislation must in any event be amended to give the PRs greater powers to recover tax from the pension beneficiary and to enable them to have direct recourse against the pension fund. S211 as amended provides an inadequate right of recovery.

Reforms to agricultural property relief and business property relief

11. Introduction and background

11.1. Business property relief (BPR) and agricultural property relief (APR) are conceptually simple reliefs: you qualify for BPR if you own a company or business which is more than 50% trading and for APR if you carry on farming for more than two years or own land which is let to another for farming purposes for more than seven years.

Until 1992, relief was at 50% of value and therefore the reduction from 100% to 50% could be regarded as a return to the old regime. However, 33 years later businesses are now considerably more complex and international, often using structures such as joint vehicles which do not fit easily into this old-fashioned relief. From April 2026, the first £1m of value is exempt on transfers by individuals and thereafter the effective rate of IHT is 20% with the ability to pay IHT in interest free instalments for ten years or until earlier sale. The £1m allowance is renewable every seven years for individuals

11.2. Nevertheless, there remains continuing and fierce litigation about what qualifies for BPR and the dividing line between investment and trading, particularly in relation to 'property heavy' businesses such as office blocks, holiday lets, caravan parks and hotel type arrangements. The reliefs themselves are somewhat arbitrary in effect. For example, a holding company with one investment subsidiary and one trading subsidiary will not receive any relief on the investment subsidiary but if the investment assets are moved up to the Holdco level then relief may be available on the entire value. Cash sitting in the trading business and not needed for the business could result in a loss of relief but if invested in, say, rental property could mean that the whole business still qualifies for full relief. There are other anomalies which can result in a reduction or withdrawal of reliefs and highlight that BPR and APR already require specialist advice.

11.3. It may therefore have been more sensible in the immediate term for government to focus on reducing the existing anomalies within the current regime and consult more widely on improving the targeting of the relief rather than simply cutting the relief which has also led to some new complexities outlined below. Any tax change involves costs for taxpayers (rewriting wills, understanding the new rules, rethinking their succession plan) and for HMRC (legislation, training, compliance). In the case of family businesses and farms, given that long term succession planning is vital, for many, the changes came as a shock. An elderly farmer who was going to leave his farm to his son on death will now have to reconsider that strategy, perhaps giving some to the spouse now to maximise the £1m exemption between them and it may be too late for them to contemplate lifetime giving as they will not survive the seven years. It is with this background in mind that we answer the questions posed.

Questions

12. How easy will it be for those affected to report and make arrangements for funding the inheritance tax due, within the statutory six-month period?

12.1. As explained above, BPR/APR already have complexities unless the business is very simple and one-dimensional. Under the current regime, where it is obvious that the business qualifies for 100% relief a relatively light touch is applied to valuations on death. However, where it is less obvious that the business qualifies in full, valuations already seem to be taking considerable time to resolve.

12.2. From 2026, in all but the smallest cases the valuations will always need to be very precise, particularly as an estate with a business valued at below £1m pays no tax at all. Liabilities may or may not reduce the value of that business below the £1m cap depending on how and when they were taken out but there are some quite complex anti-avoidance rules in place on deduction of liabilities since 2013. Unless HMRC can resource more valuers and resolve valuation disputes quickly this will add to delay. Given that interest at 8% is levied if the first instalment of IHT is paid more than six months late this will be an issue for personal representatives. In short, it is not only funding the IHT due but also **calculating and agreeing it** that will be of concern and unlikely to be finalised in the required six month period from death without significantly greater resources being

allocated to IHT by HMRC. Given the change is not scheduled to raise significant revenue they may be understandably reluctant to do this.

12.3. The ten-year interest free instalment is welcome but the IHT due still has to be funded. At present for an unincorporated business or company this will mean funding it out of net profits or dividend income. Assuming an effective rate of income tax of 40% for every £1000 paid this will mean that paying £1000 of IHT on an asset worth £5000 will often cost the business £1666 thus increasing the effective overall tax rate to nearer 34%. Some businesses will be able to borrow but farmers in particular may already be too highly geared with interest rates high relative to profits. They are also the group that are asset rich and cash poor and some may well have to sell land in order to pay the tax. Where the company is owned by multiple owners it may not be easy to fund the IHT out of the business itself.

12.4. It will therefore be necessary for younger business owners to take out life assurance where affordable and build up liquidity. For older beneficiaries the position is more difficult. Where the estate goes to the same beneficiaries as the business, funding IHT will be easier as the rest of the estate can be used to fund that IHT. But where, say, it was intended that the company shares should pass to son and the rest of the estate to daughter or spouse, this balance will need to be rethought. In some cases it will be possible to fund the IHT by a buy back of shares with capital treatment which avoids the income tax problem but the conditions round this relief are tight and complex. Some attention should be given to simplifying this buy back relief on death

12.5. Given that executors are personally liable for all IHT to the extent of the assets that come into their hands, where the instalment option is used they will need to remain legal owners of the land to protect their position for some years. They cannot just transfer it to the beneficiary and rely on indemnities.

13. What issues, if any, might arise in relation to obtaining (and agreeing) valuations of qualifying business and agricultural property for inheritance tax purposes?

13.1. As explained above, the relief contains hidden traps and complexities for the unwary. The fact that it will no longer be an all or nothing relief but 100% exemption up to £1m and then 50% means that disputes will obviously increase. Valuing businesses, especially minority shareholdings where voting rights may be split, can take significant time. Even property values can be tricky, especially in relation to agricultural land where relief is only available on the agricultural value and there may also be substantial hope value. More resources are needed here and possibly AI may play a role.

13.2. Consultation between taxpayers, professionals and PRs setting out a check list that has to be followed for valuations may provide a good initial starting point, particularly for smaller estates which have access to fewer specialist resources. The associated costs in obtaining the necessary valuations are not deductible for IHT purposes. It would be helpful if probate could be obtained before payment of IHT. This is the norm in other countries and avoids the cash flow issues whereby IHT has to be paid before the PRs can deal with the estate properly. The 8% late interest imposed is very high; it would be helpful if at least interest charges could be delayed for estates to a year from death (and similar issues arise for pensions).

14. What are your views on the Government's assessment of the impact of the changes, in terms of the number and type of estates which are affected? For example, do you think that smaller farms will be affected by the changes?

14.1. Smaller farms and older farmers who cannot use the renewable £1m allowance every seven years will be particularly affected by liquidity issues. These farms may be less profitable and more highly geared with borrowing secured on the safer assets such as the family home. A working farm with land and expensive equipment may well exceed £1m in net value. For the older widow/widower, it will be too late to use the spouse's £1m allowance and the lack of transferability increases the difficulties. Even if both spouses are still alive, this will need some advance planning with professional advice to ensure that the £1m allowance per spouse is not wasted.

15. Are farmers and business owners prepared for these changes, and what help or support might they need?

15.1. There seems general anxiety and lack of clear understanding from both professionals and taxpayers on how the new rules work. HMRC have attempted to be fair in their transitional provisions but the new rules increase complexity and lead to further anomalies.

15.2. The '100% relief allowance' is similar to the nil rate band except it is not transferable. It is defined in new s.124D as £1 million less the value of 100% relievable transfers made by the transferor in the preceding seven years. It follows that an individual's 100% relief allowance refreshes every seven years in essentially the same manner as his nil-rate band but PRs will now have to investigate all recent transfers of relievable property and will need to agree valuations very precisely if they were under £1m in order to know how much of the £1m is left to use.

Example 3. In 2027, Agatha makes a gift of unquoted shares in a trading company worth £600k. In 2029, Agatha dies, with shares and a farm in her estate worth £2m. Agatha's 100% relief allowance on death is (£1m - £600,000 =) £400,000. Accordingly, £400,000 of the value of the remaining shares is reduced by 100% and the remaining £1.5m is reduced by 50%. The £400,000 will have to be apportioned between the shares and farm according to value.

Minor fact variations could result in significant changes in the amount of tax payable.

Example 4. Husband dies with £2m worth of 100% relievable property and leaves his entire estate to wife. Wife then dies leaving her entire estate to son. On wife's death, only £1m of the property qualifies for 100% relief; Husband's 100% relief of £1m allowance has effectively been wasted. The draft legislation disadvantages married couples where one has already died leaving everything to the other. It is too late to equalise estates and maximise reliefs and the survivor may be too old to make lifetime gifts.

15.3. This feature of the new regime will, obviously, make it desirable either for spouses to equalise the 100% relievable property in their estates during their joint lifetimes; or for wills to be drafted so as to include something analogous to the nil-rate band trusts that were common prior to the introduction of the transferable nil-rate band leaving a sufficient amount of business property on the first death into a non-exempt trust to use up the £1m allowance. All this will require advance planning. Making the £1m allowance transferable like the NRB and residential nil rate band would be simpler for many smaller estates. At present the proposals favour those who can afford proper advice during their lifetimes and disadvantage those who cannot afford such advice.

15.4. It is unclear why the deceased cannot specify in his will what property should qualify for the £1m allowance and how the latter can be allocated. For example, if he leaves £1m shares to son and £1m of shares to daughter, the deceased has no ability at present to specify how the £1m available allowance can be used – it is pro-rated

equally between the two even if he would rather it went to one rather than the other. There are ways round this through use of will trusts but this will increase complexity and potential confusion in will drafting. We do not think the testator should be restricted on how he wants to allocate the tax burden. Testators should be given an option to state how they want any £1m allowance to be allocated on death. Apportionment would then operate in default.

15.5. Testators will need to consider carefully the order of lifetime giving to ensure that the £1m allowance is maximised and may end up wasting the allowance without careful drafting. All this increases complexity and cost.

16. How straightforward will it be for those eligible for the reliefs to identify how the proposed changes will impact their inheritance tax liability, in order that they can plan accordingly?

16.1. Planning has become more complex as set out above both in terms of lifetime planning and will drafting. There is now an incentive to give away up to £1m every seven years rather than just leave the whole relievable property to the heir on death. But the owner may not be able to work out how much they need to retain to live on and may be lured into making gifts too early or young. Planning will be different for each taxpayer and depend on family situations. As noted above how the £1 million allowance is allocated may cause difficulties as executors cannot choose how to allocate it between beneficiaries of an estate.

16.2. The position is rather arbitrary for trusts and can lead to odd results. Unless the trust holds and retains business property of £1m the trust allowance of £1m is lost.

Example 5. The G Settlement was established many years ago and held no relievable property immediately before 30 October 2024. In 2025 the trustees invest cash held within the settlement in the purchase of agricultural land with vacant possession. On subsequent ten-yearly and exit charges, the value of this land cannot qualify for more than 50% relief even if there is no other trust that holds any relievable property.

Example 6. In July 2026, Harbhajan settles shares in a private trading company worth £400,000 that qualifies for BPR. He makes no other settlements. On the first ten-year anniversary of the settlement in July 2036, the shares have grown in value to £800,000. 100% relief is only available on the first £400,000 of value.

16.3. Trustees or settlors cannot pick and choose what trust qualifies. It is not clear why this limitation applies – if the settlor would rather the 100% trust allowance applies to one trust rather than another why not allow them to choose as long as the £1m trust allowance is limited across all the trusts. The settlor has no ability to pick and choose. The same is true of gifts in wills.

Example 7. On 6 April 2026, Iris (who has made no transfers in the previous seven years) settles 100% relievable property worth £500,000 into Trust 1. On 20 July 2033, Iris settles 100% relievable property worth £250,000 into Trust 2 and 100% relievable property worth £750,000 into Trust 3. No IHT is payable by Iris on any of the transfers as in all cases they are within her £1m allowance which is renewable every seven years. The trust maximum amount for Trust 1 is £500,000; for Trust 2 is (£250,000/£1m) x (£1m - £500,000) = £125,000; and for Trust 3 is £375,000.

16.4. The way in which the legislation operates is that a given settlement's trust maximum allowance is fixed forever at inception. There is no provision for the allocation of the allowance between settlements made by the same settlor to be revisited if, for example, an earlier settlement ceases to hold relievable property.

Example 8. Jasprit settles shares in A Ltd worth £1m on the trusts of Settlement 1 which is 100% relievable. This takes the full trust allowance. More than seven years later he settles shares in B Ltd worth £1m on the trusts of Settlement 2. Both transfers receive 100% relief from IHT for Jasprit. Subsequently, the trustees of Settlement 1 sell their BPR shares and invest in rental property. For the purposes of relevant property regime charges, the shares in B Ltd in Settlement 2 will only ever be relievable at 50%, notwithstanding that none of the overall £1m allowance is now being used by Settlement 1. The position would be different had Jasprit gifted the B Ltd shares into Settlement 1 rather than a new settlement. In that case Settlement 1's existing trust maximum allowance of £1m would continue to apply. It is important therefore to ensure that the first transfer of business property into trust is the one most likely to be retained by that trust. You use the trust allowance or lose it.

17. What are your views on the proposed timetable for the introduction of these measures, and do you think there should be any transitional provisions?

17.1. There are generous transitional provisions for trusts funded with relievable property before 30 October 2024. However, we think there could have been more useful consultation to deal with some of the anomalies already existing on BPR and APR first before introducing a new set of complex provisions, some of which, as noted above, can look quite arbitrary for trusts and will necessitate redrafting wills. A longer transitional period for older farmers might also have been helpful to enable them to plan for such a radical change and a longer consultation period might have enabled the government to reach some more pragmatic answers on matters such as the transferable nil rate band, the £1m trust allowance and funding the IHT. Improving and simplifying the share buy back provisions would assist with liquidity issues in paying the tax out of a continuing family business.

17.2. Anecdotally, it appears to be the case that some elderly farmers despair of being able to do anything to mitigate the impact of the changes. Until October 2024, the tax system had incentivised them to hold on to their farms until their deaths and many had ordered their affairs accordingly. The changes reverse the incentive: lifetime giving is now the best approach. However, for those in their 80s and above there is a substantial risk that they will die within seven years of a lifetime gift – but after April 2026 - with the result that the gift will be ineffective for inheritance tax purposes and the possibility of double taxation arises if capital gains tax has been paid in the meantime. Moreover, individuals of this age will be unable to take out life insurance against IHT in the way that a younger taxpayer might, either because cover is too expensive or because it is simply refused.

17.3. For individuals, this change is a cliff edge on 6 April 2026. This has led to some expressing concerns around taxpayers taking their own lives in order to avoid the new rules. For example, if a taxpayer dies in March 2026 owning fully relievable assets, those assets would pass 100% IHT free. However if they died a month later, the new rules would apply. There have been stories of families pressurising or farmers in particular feeling they have to die before April 2026 to beat the changes. While these stories may be exaggerated many practitioners have reported that clients are suffering from increased anxiety and depression on how to hand on their family business intact. Clearly this is not helpful to the proper operation of the tax system.

17.4. Options discussed to mitigate this include amending paragraph 14(3) of the draft legislation for elderly taxpayers. This would mean any gifts made between 30 October 2024 and 5 April 2026 of relievable assets would continue to benefit from the old rules even if the person died within seven years. For taxpayers who may not survive seven years but have counted on the full reliefs applying on their death, it would offer a failsafe route for them to transfer those assets to the next generation IHT free as they intended. They would lose the

CGT uplift on death and could not benefit from the assets in their lifetime, but for farms and businesses that are destined to stay in the family for the foreseeable future that should not be a concern. Given the shortage of time before April 2026 this option is unlikely to be abused and would give the elderly a way out. If necessary that amendment could be restricted to those over a certain age or in ill health.

18. What are your views on the consultation process the Government has followed in relation to each of these measures?

18.1. See question 14 above. Note also that the consultation process for pensions originally proposed an entirely different way of collecting IHT on the pension funds – the pension funds would be responsible for this just as trustees are for trusts. The latest proposals are a complete reversal of that and do not take account of the comments of the professional bodies acting for PRs. A workable compromise would be to have the 50% retention. PRs will face much additional work anyway but at least they will not be tax collectors for everything. Overall, a more holistic approach to IHT would have avoided some of the above challenges.

19. Acknowledgement of submission

19.1. We would be grateful if you could acknowledge safe receipt of this submission, and ensure that the Chartered Institute of Taxation is included in the List of Respondents when any outcome of the consultation is published.

The Chartered Institute of Taxation

7 October 2025