Representation from the Chartered Institute of Taxation
for Finance Bill 2025-26 Committee of Whole House

Clause 62 and Schedule 12

Inheritance Tax:
Agricultural and business property reliefs

Chartered Institute of Taxation.

Executive Summary

We welcome the increased allowance and the decision to make it transferable. However, given the very low projected yield from these changes the increased complexity the legislation brings is hard to justify.

While the well-advised may be able to navigate themselves round some of the legislative pitfalls, the IHT payable by larger, often very successful, private businesses that are generally companies will still ultimately have to be paid for out of corporate profits, as such families will typically have ploughed everything back into the business. This will inevitably reduce the amount available for ongoing business investment and growth. Death is not a planned event and funding unplanned IHT bills – even over ten years – out of company profits which are subject first to corporation tax and then to income tax in the hands of the executors is likely to drive an increase in the sale and break up of successful businesses. The overall cost of funding the IHT after income tax will not be 20% but nearer 33%. More thought needs to be given on how to fund that IHT bill for large businesses.

We support:

- Removing the anti-forestalling rules from the legislation for gifts prior to April 2026 thus giving the elderly a chance to plan
- Easing share buy-back provisions to help businesses make IHT payments
- Allowing loans to executors to fund IHT without the participator rules biting
- An improved and quicker process to agree valuations if the proposals go ahead
- A change to the legislation to remove unnecessary complexity in apportioning allowances
- A pause on the APR/BPR proposals combined with a wider more holistic review of IHT aimed at removing existing APR and BPR anomalies and complexities

1. APR and BPR: Clause 62 and Schedule 12

Clause 62 and Schedule 12 restrict agricultural property relief (APR) and business property relief (BPR) to 100% on the first £1 million (now changed to £2.5 million) and 50% thereafter (that is, an effective IHT rate of 20% rather than 40% on the value over £2.5m).

The current regime provides an unlimited 100% IHT relief on the transfer of agricultural or business property. The same rules affect the IHT payable by trusts holding such property.

Clause 62 also extends the anti-avoidance rules to bring UK agricultural property held in overseas structures within the scope of IHT, alongside UK residential property.

1.1 *How to fund IHT bills*

For the UK's many large and medium-sized businesses, funding IHT is now a major concern. The funding problem was always an issue prior to 1992 and private businesses now are much larger and interest costs higher. The need to pay tax out of corporate profits will act as a drag on growth and reinvestment.

1.2 Under the current rules, IHT payable in relation to certain illiquid assets (land, shares, businesses) can be settled by way of ten annual interest free instalments. This Finance Bill extends the instalment option to all APR and BPR property.

While payment by instalments is welcome, finding even 10% of the IHT payable each year will be a significant burden, likely to result in families having to sell the business to fund the tax.

1.3 Imagine a large multi-generational family company that owns and operates a large bakery where the shares of the deceased are worth say £100 million, but with very tight profit margins in a competitive arena. It employs considerable staff and the shares are owned by different shareholders within the various family branches. On death, the £100m shares pass to the married owners' adult son who also works in the business and wishes to continue it. Assume the £5m BPR allowance has already been used; the executors or son will need to find £20 million of cash to fund the IHT or £2m every year for the next ten years.

1.4 Funding the IHT could be achieved through annual dividends if there are enough profits but of course as there are many other shareholders this may not be possible. Taking out the profits at this level will obviously affect the amounts the business can invest in staff and expansion. However, every £100,000 of cash would require business profits of almost £220,000 (allowing for corporation tax at 25% followed by dividend income tax at 39.35%). Therefore, the effective IHT rate on assets in excess of the allowance increases from 20% to nearer 44%. Even ignoring corporation tax which has to be paid anyway on corporate profits the effective rate to get the money out could be 33%.

Even if this level of dividends solely to fund IHT were sustainable year on year, the son would be forgiven for concluding a sale of his shares is the simpler option. If another shareholder dies shortly afterwards without adequate cover for their IHT bill the business will be even more adversely affected.

1.5 In the absence of longer transitional provisions, we suggest that the removal of two of the more stringent share buyback conditions could assist greatly particularly where there are only one or two heirs and the deceased owned most of the shares. The first is the removal of the requirement to show undue hardship. The second is to allow the purchase price to be paid over a longer period rather than immediately all on completion.

A company can buy the deceased individual's shares to fund the IHT without needing to distribute (taxable) dividends to all shareholders. However, this is currently only on the condition the taxpayer convinces HMRC that paying the IHT any other way (for example by taking out loans) would cause undue hardship. In addition, the price has to be paid in full on completion. In many cases this will not be possible: the company will not have the cash reserves needed to pay for the deceased shareholder's shares and if the executors do not sell all of their shares at once relief is effectively denied. It would be much easier if in relation to death sales only, the legislation was amended to allow the company to fund the buy back of the deceased's shares in instalments. This would be a major and welcome change that would provide genuine relief for cash strapped businesses and allow them to plan the funding of the IHT without the need for a fire sale. The funding of the IHT is then no longer net of income tax leaving more in the company to fund the running of its business.

In some cases, a buyback will not be possible but in these circumstances a loan to the executors to fund the IHT at least initially without the adverse loans to participators rules immediately being triggered would assist. CIOT is happy to work with HMRC to consider these rules in more detail.

1.6 *Timing of IHT payment and reporting*

The restriction to APR and BPR means that valuations of relevant property will need proper consideration by both taxpayers and HMRC. This will take time.

In the past, HMRC have accepted a light touch on valuations where it is clear the business qualifies for 100% relief. The introduction of a £2.5m allowance now means valuations for all but the smallest businesses will need to be much more precise, requiring far greater professional valuation resource and longer administration periods.

1.7 In addition, businesses will need to consider how they will deal with the death of a business owner. Can the whole business or some of its assets be sold to a third party? Can a loan be taken out? Can the other business owners or perhaps its employees buy out the estate's share? These decisions can and do take years but must now be resolved within 6 months of death to pay the IHT in time to avoid 7.75% interest charges.

1.8 We support the government's aim of ensuring the right amount of tax is paid within a reasonable timeframe. However, given the significant changes to the IHT legislation in respect of APR/BPR and pensions, and the level of complexity now facing executors, we suggest that aligning the payment deadline with the 12 month reporting deadline would be reasonable.

1.9 The timing issues are compounded by the imposition of penal interest charges, which increased from the base rate plus 2.5% to the base rate plus 4% from 6 April 2025 (and so are currently running at 7.75%).

Interest charges have historically been justified as simply providing compensation to the government for the taxpayer having the advantage of the use of the funds. Interest runs from the original due date even if the tax liability is unknown at that point and there is no automatic right of appeal.

We suggest that such a high rate in these circumstances can no longer be justified and recommend that, if an extension of the 6 month payment deadline is not accepted, a lower interest rate prior to the 12 month reporting deadline is introduced.

1.10 *Transferability of allowance between spouses and civil partners*

We support the government's change of policy on the transferability of the allowance, so that unused allowances can now be transferred to the survivor of a married couple just as for the nil rate band (NRB) and residential nil rate band (RNRB).

This is something we have called for since the changes were announced at Autumn Budget 2024 in order to align the new allowance with existing similar reliefs such as the nil rate band and residence nil rate band. We note, however, that it might have saved many taxpayers and their advisers much additional work on re-writing wills and succession planning had it been announced earlier.

1.11 *Apportionment of allowance*

Schedule 12 apportions the allowance equally across all chargeable APR/BPR property in an estate, with no option to allocate it to specific property. In short it is not possible to say "I leave qualifying property worth up to £2.5m to my son with the benefit of the exemption and the balance to my daughter without the exemption".

Since no specific property can be allocated the allowance, the many wills drafted to "leave all property qualifying for 100% relief to…" may simply fail where there is more than £2.5m of relevant property, giving rise to transfers contrary to the deceased's wishes, disputes and potential hardship.

We therefore suggest an addition to the legislation along the lines of "Subject to contrary intention expressed in any testamentary or other instrument to allocate the 100% relief allowance to specific gifts …" followed by the default apportionment rules.

1.12 *Lack of transitional rules*

Paragraph 17 of schedule 12 introduces anti-forestalling rules for gifts made on or after 30 October 2024. The rules mean the restricted APR/BPR allowance applies to such gifts where death occurs after 6 April 2026. By extension, full relief continues to apply if death occurs before 6 April 2026.

Gifts to individuals are fully exempt from IHT if the donor survives 7 years, so the anti-forestalling rules are less of a concern for those in good health. For those who do not have 7 years to plan their affairs, there is now a perverse benefit to dying before 6 April 2026. There seems no good policy reason for the difference.

1.13 We suggest consideration is given to removing the anti-forestalling rules, allowing older individuals and those in ill health the same opportunity as others for succession planning.

Since lifetime gifts lose out on the capital gains tax-free uplift on death, the government may find there is little impact on the overall tax take.

1.14 *Existing anomalies of APR/BPR*

As the CIOT has previously observed, there are a range of complexities and anomalies within the existing APR/BPR legislation, for example the dividing line between trading and investment, and the illogical application of the reliefs to corporate groups such as joint ventures – common for overseas expansion. The significant resources expended through HMRC enquiries, appeals, reviews and court cases on APR/BPR availability is testament to the ambiguity and difficulty of administering the reliefs.

The new rules add further complexity to the IHT regime and so it is disappointing that thought has not been given to reducing the existing issues. Rather than introducing considerable new complexity through these proposals, and noting their small projected yield (less than £400 million per annum) we suggest that the proposals be paused to allow for a government consultation on wider improvements to IHT including a more targeted APR/BPR. This would enable the government to ensure any new legislation works effectively, particularly for business owners, agri/environmental land managers and those with international connections.

2 The Chartered Institute of Taxation

2.1 The Chartered Institute of Taxation (CIOT) is the leading professional body in the United Kingdom concerned solely with taxation. 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. 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.

2.2 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. The CIOT's comments and recommendations on tax issues are made in line with our charitable objectives: we are politically neutral in our work.

2.3 The CIOT's 20,000 members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

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The Chartered Institute of Taxation
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