

Comments on IHT Agricultural Property Relief and Business Property Relief draft legislation for Finance Bill 2025-26

Response by the Chartered Institute of Taxation

1 Executive Summary

- 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 19,000 members, and extensive volunteer network, in providing our response.
- 1.2 To permit the £1m allowance to be transferable between spouses would have been a straightforward way of mitigating the randomly harsh impact of the changes.
- 1.3 Government announcements have emphasised that a farming (or business) couple could have up to £3m of allowances before the 50% restriction applied. Mandatory apportionment of the £1m allowance across all relievable property owned by the deceased prevents its efficient allocation to meet that policy objective. It also operates counter to the principle of testamentary freedom and will, in many cases, stifle the wishes of the testator.

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.

3 Introduction

- 3.1 CIOT set out below our detailed comments on the IHT Agricultural Property Relief and Business Property Relief draft legislation published on 21 July 2025 to be included in the Finance Bill 2025-26.

- 3.2 Our stated objectives for the tax system include:

- A legislative process that translates policy intentions into statute accurately and effectively, without unintended consequences.
- Greater simplicity and clarity, so people can understand how much tax they should be paying and why.
- Greater certainty, so businesses and individuals can plan ahead with confidence.
- A fair balance between the powers of tax collectors and the rights of taxpayers (both represented and unrepresented).
- Responsive and competent tax administration, with a minimum of bureaucracy.

4 Non – Transferability of the £1m allowance

- 4.1 We query the decision not to permit the £1m allowance to be transferable between spouses when in other respects it is to operate like the nil-rate band (NRB) and the residential nil rate band (RNRB) has been confirmed. This would have been a straightforward way of mitigating the randomly harsh impact of the changes.
- 4.2 We imagine that behaviours similar to those adopted before the introduction of the transferable NRB in 2007 will become prevalent, resulting in a proliferation of £1m discretionary will trusts on the first death with surviving spouse and children as discretionary beneficiaries combined with steps to equalise estates to ensure each spouse has relievable property of at least £1m. We query why government policy seeks to encourage this additional complexity, with its attendant cost. On the other hand, those who are unable to amend their wills (because they lack the immediate financial means or the mental capacity to do so) will be prejudiced.
- 4.3 The draft legislation appears to disadvantage married couples where one has already died leaving everything to the other in the belief that full relief would be available on the second death. Is there a case, at least here, for allowing a double allowance where the surviving spouse is over a certain age? That would be consistent with the examples frequently made by government ministers quoting £3m of value before the proposed 50%

IHT rate would bite¹ – an assumption that the business or farm is owned by those who are currently married, rather than by a widow, widower or unmarried person.

- 4.4 We are concerned that bringing in changes to APR and BPR with a cliff-edge date of 6 April 2026 does lead to a significant risk of suicides among farmers or business owners prior to that date. This may be particularly the case among those who are unlikely to survive 7 years and therefore do not have the option of making viable gifts. We have heard of specific examples of elderly farmers who are actively considering this dreadful course of action.

This risk is caused by a cliff-edge introduction on 6 April without a transitional rule. We suggest that the position could be rectified by a simple amendment to paragraph 14(2) and related paragraphs such that a gift between now and April 2026 would continue to qualify under the existing rules even if the donor died (on or after 6 April 2026) within 7 years.

5 Apportionment of the £1m allowance

- 5.1 Draft new sections 124(D) to 124(G) apportion the allowance across all relievable property owned by the deceased.
- 5.2 For example, a legacy of £1m of relievable property representing, say, 10% of the total relievable property would only attract 10% of the allowance – rather than the full £1 million. Similarly, a legacy drafted as ‘I leave my property qualifying for 100% relief to...’ does not seem to work where there is more than £1m of relievable property because the relief is spread and therefore no specific property actually attracts the 100% rate. This will undoubtedly cause difficulties in practice.
- 5.3 Given that government announcements have emphasised couples utilising up to £3m in allowances, the legislation should follow that premise by making it possible to leave relievable property to someone other than a spouse on the first death, given that the £1m allowance is not transferable.
- 5.4 Applying apportionment as currently drafted, the RNRB appears to be restricted in a way which defeats the £3m objective. If the agricultural land is worth £1m and the house is worth £500,000, of which the agricultural value is £400,000, there would be a higher RNRB allocation if there was the option to allocate the £1m allowance to the land so that the value of the residence for calculating the RNRB would then be £300,000 (£100,000 non-agricultural value, plus 50% of the remainder). In the absence of the ability to elect to allocate the £1m allowance to the land, part will be allocated to the house; this will impact the calculation of the maximum RNRB as the effective rate of APR on the house will be more than 50%.
- 5.5 The legislation as currently drafted also imposes an unnecessary restriction on how a testator might otherwise wish to determine the succession to their estate. We suggest wording along the lines of: ‘Subject to contrary intention expressed in any instrument to allocate the 100% relief allowance to specific properties....’ be inserted at the start of s124D(7). This is consistent with government announcements; it gives the testator the opportunity to allocate the allowance should they so wish, but leaves the apportionment principle as the default provision.

¹ See, for example, the Chancellor’s undated letter following the Treasury Select Committee meeting of 6 November 2024 committees.parliament.uk/publications/45691/documents/226235/default/ and the 21 July 2025 policy paper [Agricultural property relief and business property relief reforms - GOV.UK](https://gov.uk/government/policies/agricultural-property-relief-and-business-property-relief-reforms)

- 5.6 Paragraph 19 of the Explanatory Notes says '*Subsection 124D(2) provides that the 100% allowance that is available for a chargeable transfer is equal to £1 million less the total amount of 100% relief applied to other chargeable transfers made by the same transferor in the allowance period. Transfers of value that are exempt transfers do not use any of the 100% relief allowance*'. We cannot see a corresponding provision in s124 or elsewhere specifying that exempt transfers do not use the 100% relief allowance. Could HMRC please confirm that this is because of the fundamental principle in s2(1) that 'A chargeable transfer is a transfer of value which is made by an individual but is not an exempt transfer'.

6 Acknowledgement of submission

- 6.1 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

15 September 2025