

Reforms to Inheritance Tax agricultural property relief and business property relief: application in relation to trusts

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 20,000 members, and extensive volunteer network, in providing our response.
- 1.2 The proposals add additional complexity to an already complex system. We question whether the greater compliance, and detailed valuations required from taxpayers and HMRC are justified by the amount of revenue expected to be raised.
- 1.3 It would simplify understanding of the operation of the £1m allowance for individuals if it were to be transferable between spouses so that it aligns fully with how the Inheritance tax (IHT) nil-rate band (NRB) works.
- 1.4 There is considerable ambiguity over how the £1m trusts allowance operates. The fundamental design questions that need clarification are: does it refresh fully every 10 years? If it has been allocated to one trust, and that trust ceases to hold relievable property or is terminated entirely, is the allowance re-allocated to other trusts created by the same settlor?

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 At Autumn Budget 2024, the government announced several changes to the existing IHT regime on agricultural property relief (APR) and business property relief (BPR). In particular, from April 2026 a new £1 million allowance¹ will apply to the combined value of property that qualifies for 100% BPR or 100% APR or both; after the £1 million allowance has been exhausted, relief will apply at a lower rate of 50% to the combined value of qualifying agricultural and business property. This response is to the technical consultation² issued on 27 February 2025 seeking views on aspects of the application of the £1 million allowance for property settled into trust qualifying for 100% APR or BPR and the relevant property charges more generally.
- 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.

As explained at Section 14, these proposals fail on four counts; one objective is not relevant.

- 3.3 The complexity illustrated by the consultation together with the need for greater compliance and detailed valuations from both taxpayers and HMRC will be significant when compared with the amount of revenue expected to be raised.
- 3.4 The consultation and the earlier policy paper are silent on the net zero impacts of this measure. The CIOT suggests that the government might consider including a statement on net zero in its own section heading in

¹ [Summary of reforms to agricultural property relief and business property relief - GOV.UK](https://www.gov.uk/government/consultations/summary-of-reforms-to-agricultural-property-relief-and-business-property-relief)

² [Reforms to inheritance tax reliefs: consultation on property settled into trust - GOV.UK](https://www.gov.uk/government/consultations/reforms-to-inheritance-tax-reliefs-consultation-on-property-settled-into-trust)

all TIINS so that it is clear to readers that the topic has been considered by the government in respect of this measure.

- 3.5 We note with disappointment that the Tax Consultation Framework 2011³ has not been followed. This is a Stage 2 consultation. Had the full framework, starting with Stage 1 'Setting out objectives and identifying options', been followed, many of the difficulties we and other professional bodies have identified could have been avoided.
- 3.6 Our comments on the Questions set out in the Consultation document are set out below.

4 *Q1: Are the rules on the application of £1 million allowance for individuals sufficiently clear for transfers made on or after 6 April 2026? What are your views on this?*

- 4.1 The rules on the application of the £1m allowance for individuals are broadly clear. Could HMRC please confirm that if several transfers of property qualifying for relief are settled into different trusts on the same day, the settlor's £1m allowance would be apportioned?
- 4.2 The Consultation states that 'it will refresh every 7 years on a rolling basis in a similar way to how the NRB applies' and it 'will be allocated on a chronological basis... This is consistent with how the NRB is allocated.' However, 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 (RBRB) seems simply to be an unfair attempt to raise revenue.
- 4.3 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. 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.
- 4.4 It also seems to be unfair 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 bite – an assumption that the business or farm is owned by those who are currently married, rather than by a widow, widower or unmarried person.
- 4.5 The position of an individual making a gift of relievable property worth, say, £500k to an individual and then dying within 7 years needs to be made clear. Is only £175k of the £1m allowance used and the balance covered by the NRB. Or is 100% relief given to the £500k transfer and then the £325k NRB is available on death, along with the £500k balance of the £1m allowance?
- 4.6 The examples do not make it clear what happens where a Potentially Exempt Transfer (PET) is made followed by an immediately chargeable transfer, both potentially qualifying for the £1m relief? The chargeable transfer into trust will in the first instance take the £1m relief but what happens if the transferor dies within 7 years of the original PET as presumably the relief is reallocated to the PET that has now become chargeable. In these circumstances the trustee will be liable for additional tax but what if they have distributed the trust

³ [Tax Consultation Framework](#)

property? If they remain liable the examples should make this clear. The trustees will not necessarily know the history of the transferor's PETs so the only safe way is for them to retain trust property for 7 years, or to be indemnified by the beneficiary receiving such a distribution. Both of these options introduce unwelcome complexity.

4.7 Further consideration is needed to deal with the position where:

(a) the donee has sold the relievable property after the gift and the donor dies within 7 years, in these circumstances there is a clawback of relief under current rules. Under the new regime will the £1m allowance then be allocated against later lifetime gifts or the death estate where that property qualifies for relief? Or will it be lost altogether if allocated first against a transfer that later fails to qualify for relief?

(b) property falls in value and the donor dies within 7 years - in these circumstances does the difference between the value at date of gift and value at date of death become eligible to be allocated against other transfers made later or on death?

5 *Q2: Are the rules on the application of the £1 million allowance for 10-year anniversary charges and exit charges sufficiently clear for property settled on or after 6 April 2026? What are your views on this?*

5.1 There is considerable ambiguity over how the £1m trusts allowance operates. The fundamental design questions that need clarification are: does it refresh every 10 years (or possibly after 7 years)? If it has been allocated to one trust, and that trust ceases to hold relievable property or is terminated entirely, is the allowance re-allocated to other trusts created by the same settlor? The text of HMRC's paper and the case studies do not make those points clear. If they are clarified to create a coherent framework, some of the detailed questions we now pose may well be resolved.

5.2 We seek confirmation that the current position on the application of APR/BPR to exit charges levied during the first ten years of a trust created after 6 April 2026 is maintained: i.e. the rate of charge is calculated without reference to APR/BPR on the assets settled but the £1m trust allowance does apply if the trustees qualify at the date of the exit (having attained 2 years' ownership).

5.3 Has the application of the £1m trust allowance to same-day settlements been considered? We would assume that similar principles to those in IHTA 1984, s.62A apply, but seek confirmation. For example, we assume that where there are 6 trusts set up or settled on the same day but only two of them have relievable property settled into them, the £1m allowance is split equally between those two trusts only. Their position on the £1m allowance is unaffected by the remaining trusts although the remaining trusts may affect the rate of tax on related property.

5.4 The position of a trust which originally held relievable property, but which has been sold, should be made clear. Our reading of the proposals is that once the £1m allowance has been allocated to a particular trust (or trusts) it cannot be re-allocated to another trust but the £1m allowance is potentially available for a trust at the ten-year anniversary if not used elsewhere, irrespective of whether it was available when the property was originally settled.

EXAMPLE

Settlor creates Trust A in year 1 with £1m of business property; some of that property is sold in year 5 leaving £600k of relievable property. Settlor creates Trust B in year 8 with £1m of agricultural property. That

chargeable transfer attracts the settlor's refreshed allowance; but the £1m trust allowance originally allocated to trust A can never be applied to any other trust. What if Trust A later spends £200k on the acquisition of new business property in year 7. Can its relief now rise to £800k or is it limited to £600k for evermore? We assume that the first Trust can always have up to £1m allowance. Would the position be any different if trust A acquired the new business property in Year 9?

- 5.5 Similarly, what is the position if Trust D is set up in 2027 with cash settled of £1m (maybe it is excluded property) and then the funds are invested in Year 7 in qualifying agricultural land. Does that Trust get £1m of relief at the ten-year anniversary assuming no other trust of the settlor has been set up with property qualifying for full relief?
- 5.6 The position could get complicated given the anti-fragmentation rules. For example, Trust E is setup in Year 1 and Trust F in Year 2 each holding £2m cash and the settlor is not a long-term UK resident. Two years later the settlor becomes a long-term UK resident. In Year 7 trust E invests half its cash i.e. £1m investment into relievable property – presumably Trust E will qualify for the £1m allowance at the ten-year anniversary. Trust F gets nothing irrespective of what it invests in. But what if Trust E makes an investment of only £600k in relievable property. Can Trust F claim the balance of £400k and invest in relievable property to protect the ten-year anniversary charge? In other words, there needs to be some method of setting out how the £1m relief is allocated – it cannot simply be to the first trust settled because that trust may not hold relievable property initially. It should presumably be allocated across all trusts in the order in which they first acquire relievable property. Or is it the case that the £1m allowance can only be used by trusts if at all times they hold relievable property to that value – this would effectively impose not a two-year ownership period but a ten-year ownership period.
- 5.7 Generally, it seems unfair that, once a part of the £1m allowance has been allocated to a trust, it can never be used by another trust. One possibility might be for the settlor/trustees to be able to nominate which trust(s) gets the allowance and to change that nomination, provided it is not being used twice to shelter a charge that relates to the same period, although we accept that would itself require further thought to prevent abuse.

6 *Q3: What are your views on the proposal to standardise the calculation of Inheritance Tax exit charges, so that all exit charges are calculated based on unrelieved values regardless of whether the exit takes place before or after the first 10-year anniversary?*

- 6.1 By not applying relief when calculating the rate of tax which would apply on an exit after the ten-year anniversary, any non-relievable property (e.g. cash) in a settlement appears to suffer a higher rate of charge than previously.

EXAMPLE

Settlement contains £325k cash and £1m agricultural property. The settlor had not used their £325k NRB prior to creating the settlement. The rate applicable to the £325k cash is calculated on the aggregate value of £1.325m; there will be no IHT payable on the £1m agricultural property on the first ten-year anniversary as it is covered by the trust allowance. Increasing the tax payable on the cash in this way seems to go beyond the policy objectives.

By setting up two separate settlements, one holding £325k cash and the other £1m agricultural property, the IHT payable on exits from both would be nil.

- 6.2 As we understand the proposal, the intention is that there is no change to how the rate of tax is calculated at the ten-year anniversary, but the rate applicable to subsequent exits is to be calculated separately, without reference to the relief; however, the relief would be allowable in calculating the amount of the charge on the exit. This may be seen as an anti-avoidance measure in that, if the relievable property has been sold, say, 3 years after the ten-year anniversary, any distribution of that cash is charged at a 'full' rate which is not reduced by any earlier relief. Is the added level of complexity necessitated by requiring a second calculation to be made justified?

7 *Q4: What are your views on the proposed transitional provisions for qualifying agricultural and business property settled into a relevant property trust before 30 October 2024?*

- 7.1 The explanation of the transitional provisions sets out the position of qualifying agricultural or business property settled before 30 October 2024. But it does not address the issue of a pre-existing relevant property trust which held, say, quoted shares but sold them and re-invested the proceeds in agricultural land during the transitional period or indeed after the transitional period. Please confirm our assumption that if at any point a pre-30 October 2024 trust holds relievable property it will attract 100% relief up to the first ten-year anniversary after 6 April 2026.
- 7.2 The transitional provisions do not make it clear what the position in respect of the £1million allowance will be for trusts which did not hold qualifying agricultural or business property on 29 October 2024. Will such trusts benefit from such an allowance if they subsequently acquire qualifying agricultural or business property settled on or after 30 October 2024. Would the position be different if they had previously held qualifying agricultural or business property settled but did not on 29 October 2024?
- 7.3 If the requirement is to own qualifying agricultural or business property on 29 October 2024, the consultation document appears to imply that holding any amount of such property will mean that the full £1million allowance will be available to such a trust even if the value was less than £1million on 29 October 2024.
- 7.4 If the requirement is to own qualifying agricultural or business property settled on 29 October 2024, would such property need to have been owned for the relevant qualifying period of 2 or 7 years to mean that the £1million allowance is available to that trust?

8 *Question 5: What are your views on the proposed transitional provisions for qualifying agricultural and business property settled into a relevant property trust during the transitional period?*

- 8.1 We have no comments.

9 *Question 6: What are your views on introducing a single £1 million allowance for 10-year anniversary charges and exit charges where a settlor has transferred property into multiple trusts on or after 30 October 2024?*

- 9.1 Whilst we recognise the need for an anti-fragmentation rule the difficulty for one set of trustees sharing or obtaining information from another set of trustees should not be under-estimated. There may well be separate trusts established for different branches of the family, particularly in the ever more common context of blended families. It would be sensible to include statutory rights to information, and obligations for its supply. And a set of trustees should not be penalised when, after reasonable enquiry, they have not been able to establish the existence or identities of other trustees.

- 9.2 Returning to the point begun at 5.4:

EXAMPLE

All trusts are created by the same settlor with what would currently be qualifying agricultural/business property:

Trust 1 with relievable property settled June 2026

Trust 2 settled June 2028

Trust 3 settled June 2030

Trust 4 settled June 2032

If Trust 1 terminates in June 2029, which trust then has the £1m allowance for 10 year/exit charges? Is the £1m allowance only relevant to trusts where the £1m was available/used on creation?

Our reading is that the £1m is only ever available to Trust 1 and will never again be available to any other trust *while Trust 1 exists*. Would HMRC please clarify whether, once Trust 1 terminates, the allowance is available to another trust; and if so, to which trust? See also the questions posed above where Trust 1 does not initially hold relievable property but later acquires it, perhaps after Trust 2 already has relievable property

Presumably the allowance would only be available to a trust that is settled after June 2029 with qualifying property and is not available to any trust that existed at any time while trust 1 was in existence.

- 9.3 Similarly, does it matter whether the £1m was merely available on creation or was actually used on creation?

EXAMPLE

Trust 1 was settled June 2026 with £325k non-relievable property that quickly grows to £1m inside the trust; the trustees then purchase £1m of relievable property in June 2028.

Trust 2 settled June 2029 with £1m relievable property.

Which trust attracts the £1m allowance for TYAs / exits?

Our reading is that 'chronological order' refers only to trusts that utilise the £1m *on creation* so in this case, despite being settled first and being the first one to hold qualifying property, Trust 1 would *not* attract the relief.

Trust 2 would, of course, have used the settlor's £1m allowance when the property was settled.

10 *Question 7: What are your views on introducing rules similar to the existing ‘related’ property provisions for Inheritance Tax, so that multiple holdings by the same settlor across multiple trusts can be connected for valuation purposes?*

- 10.1 The idea of introducing a ‘related property’ provision across all trusts created by one settlor could have adverse impacts.

EXAMPLE

A holds 99 shares of A Ltd personally and has settled 1 share into a relevant property trust. If no dividends are paid the market value of the trust’s holding would be low. Depending on the value of the company overall a related property concept could see the trustees facing an IHT charge greater than the market value of their asset.

- 10.2 It seems illogical that these provisions seem only to apply to property qualifying for BPR/APR, and not more widely to other forms of property, say, to trusts holding shares in the same investment company.
- 10.3 The same points made above about trustees not having information about other trusts would also apply here.

11 *Question 8: What are your views on the application of the £1 million allowance to special trusts, age 18 to 25 trusts and QIIP trusts?*

- 11.1 The proposals seem to penalise QIIP trusts – why does the life tenant have to share their personal £1m allowance, just because that is how the nil-rate band works? This is harsh compared with the generous treatment afforded to 18-25 trusts, particularly if the capital of the trust goes to a completely different relative and not, say, to a child of the life tenant.
- 11.2 The position of a pre-30 October 2024 (including an old-style pre-2006) trust which had a qualifying interest in possession on 29 October 2024 appears not to have been addressed. Where such a qualifying life interest subsequently comes to an end, either by termination or on the death of the qualifying life tenant, will it have its own £1million allowance? This would align with the treatment of existing Relevant Property Trusts in the section of the consultation document headed ‘Transfers made before 30 October 2024’.

12 *Question 9: Do you have any further views on the application of the £1 million allowance to property which has been settled into trust?*

- 12.1 We see no mention of excepted assets - presumably this value is excluded from the calculation of the £1m allowance?

13 *Other comments*

- 13.1 By capping the allowances for individuals and trusts at £1m it will become imperative that on every occasion of charge a comprehensive valuation be performed to ascertain how much of the 100% relief allowance has been utilised and how much of the transfer may be subject to 50% relief. In addition to the cost of this exercise (for both the taxpayer and HMRC) we wonder whether there are sufficient numbers of qualified valuers (again, on both sides) to undertake these tasks. And if there are not, then delays in final figures being agreed are

inevitable – with particularly adverse consequences for the taxpayer in the light of interest on unpaid tax being charged at 4% over Bank of England base rate (an effective 8.5%) from 6 April 2025.

- 13.2 Because of this increased need to obtain valuations on every chargeable occasion, we believe there is a case for extending the 6-month filing deadline for ten-year anniversaries and exits. Indeed, the same considerations apply to Personal Representatives needing to meet a similar timeframe to avoid interest running on a deceased's estate.

14 How the proposals measure up to CIOT's objectives for a tax system

14.1 *A legislative process that translates policy intentions into statute accurately and effectively, without unintended consequences*

- 14.2 The 30 October 2024 HMT Policy paper⁴ contained a lot of description of the proposed changes but very little on policy. The only reference to policy is: 'The government has decided to retain these reliefs but better target them, as it is not fair or sustainable for a very small number of claimants each year to claim such a significant amount of relief.' Although the stated policy appears to be to 'better target the relief' there is no indication of what the target is. Instead, the operation of the proposals appears to simply to cap the amount of relief available – a money raising measure, as the accompanying statistics confirm.

- 14.3 In our view the people most likely to be affected are those actively involved in a farm or business.

A working farmer with equipment and livestock will be much more impacted than a passive investor who simply owns land for grazing or letting.

Similarly, businesses are affected when active founders or shareholders die, leaving a big question about how the IHT on their business is to be funded. Can the business interest be sold? If so, to whom? Should it be a third party and if so, would they fit the business ethos? Should the business buy the deceased's interest? If so, how will this be funded? Such considerations divert management from its key function of growing the business.

It is very possible that businesses will retain cash to fund potential IHT liabilities – and will not invest in future expansion of the business, to the detriment of the wider economy.

These proposals, whatever the intention may be, may well lead to the break-up of many viable family businesses and farms.

14.4 *Greater simplicity and clarity, so people can understand how much tax they should be paying and why*

- 14.5 The proposals undoubtedly add complexity. And, as the overarching structure of how the trust allowance operates has not been fully set out, there is a lack of clarity (as our detailed questions above have demonstrated).

14.6 *Greater certainty, so businesses and individuals can plan ahead with confidence*

- 14.7 The lack of clarity in the proposals has led to uncertainty and alarm in the business community. A regime that had been in place for some 40 years has been overturned at short notice. Although we welcome the delay until 6 April 2026 (giving 18 months to consider the position), this is a delay rather than a transitional provision – particularly for those who planned to pass businesses on to their children on their deaths, and are now

⁴ [Summary of reforms to agricultural property relief and business property relief - GOV.UK](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/123456/Summary_of_reforms_to_agricultural_property_relief_and_business_property_relief_-_GOV.UK)

unlikely to survive 7 years. Such actions undermine confidence in the tax system. Some taxpayers, particularly those who are unlikely to live for more than 7 years after making a lifetime gift, and single or widowed businesspeople where only a single allowance will be available to the family, are particularly disadvantaged.

14.8 *A fair balance between the powers of tax collectors and the rights of taxpayers (both represented and unrepresented)*

14.9 The proposals do not make any changes to the existing balance between HMRC and taxpayers.

14.10 *Responsive and competent tax administration, with a minimum of bureaucracy*

14.11 These proposals will create substantially more work for HMRC in agreeing claims for 100% relief, with the balance attracting 50% relief. The workload of the Valuation Office will also increase as every claim for relief will have to be scrutinised. We can only hope that staffing levels in both agencies will be commensurate with the additional burden, otherwise the service to taxpayers, and particularly the beneficiaries of estates and trusts, will deteriorate. Bureaucracy will inevitably increase.

15 Acknowledgement of submission

15.1 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

23 April 2025