

All is not IHT lost

With the cost of living crises and higher interest rates the value of land or property (L/P) in some areas of the UK may have fallen over the past 18 months or so.

If L/P within a deceased's estate is sold for less than the probate value within 4 years of the date of death, the appropriate person (usually the executor) can make an inheritance tax (IHT) loss relief claim within 7 years of the date of death, to effectively, for IHT purposes, replace the original probate value with the sale price and recover the IHT on the difference.

The claim cannot be made if:

- ▶ The difference between the sale price and that probate value is the lower of £1,000 or 5% of that probate value or
- ▶ The L/P is sold to a connected person of the deceased, for example, children or grandchildren or
- ▶ The estate has a right to retain or acquire an interest in the L/P after the sale.

A simple example:

- ▶ Mary Garrity died in January 2022 owning a rental property with a probate value of £800,000.
- ▶ In May 2023 Mary's executors sold the house to an unconnected third party for £720,000.
- ▶ The executors could make a claim to replace the original probate value with the sale figure.

However care needs to be taken especially if the estate has other land or property they are intending to sell. Once the claim has been made it cannot be withdrawn. So the timing of the claim and even whether or not it is beneficial to make such a claim needs to be considered.

The reason for that is if, say, Mary's estate had another L/P and sold that within 3 years of her death at a greater value than the original probate value, then, because the executors have made the IHT loss claim, that higher value also replaces its initial death value when looking at the revised IHT position. So the estate could end up paying more in tax than before. The only exception to this rule would be where the loss claim related to a sale of a L/P in year 4 following the date of death.

When considering making a claim it is important to note that any discounted element of value given on death for jointly owned property has to be ignored when comparing the sale price to the probate value.

For example:

- ▶ The deceased, Tim Rudge, jointly owned a half share in 'The Valiant' property valued at £400,000 at date of death. The deceased's half share, after a discount, was £180,000.
- ▶ A year after Tim's death, the property was sold for £390,000.
- ▶ Any claim would not be in the estate's favour as it would replace the initial death value of £180,000 with the half share of the sales price, £195,000.

If an estate sells shares within 12 months following the date of death, for less than the probate value, an IHT loss relief claim can also be made within 4 years of the deceased passing away. The shares cannot be unlisted or being traded on the Alternative Investment Market. Similar to the L/P criteria, all shares sold within that 12 month period, including those which were sold for a greater value have to be taken into account if a claim is made.

TIP...

If you would like us to review the Estate position to see if a loss claim is worthwhile making than please do not hesitate to contact us.

Gift by way of an undivided share

Your home is one of the most valuable assets you own. When you die, it can potentially form a sizeable chunk of your estate when looking at your inheritance tax (IHT) position.

Simply giving away the property in whole or in part, during your lifetime, whilst continuing to enjoy occupying it, until your death, can give rise to an income tax liability either for you personally, whilst still alive, or the recipient of the gift or, as is more likely, the value of the property remains within your estate up to the date of death, triggering an IHT charge.

For example:

► Mary gifts her home to her son John in March 2023 when the house is worth £750,000.

► She continues to live in the property, rent free, until her death in March 2033 when the home is now worth £2 million.

► Even though Mary has gifted the property away more than 7 years prior to her death, she has continued to enjoy the benefit of the property after the gift was made.

► Therefore, the £2 million value of the home falls within her estate for IHT purposes. This could trigger a potential IHT bill of up to £800,000.

However, by gifting an undivided share of the residence to John, depending upon the circumstances, Mary could potentially mitigate her IHT liability, as regards the property, by as much as £400,000, whilst still being able to occupy the residence, without triggering an income tax charge on either herself or John.

‘Undivided’ in this context means that, although co-owned, the house itself is one whole residence and is not separated legally into different parts nor is each share of the home specifically identified.

There are a number of conditions which must be met for Mary’s estate to obtain this IHT break:

a) She must gift no more than 50% of the property to John.

b) It must be John’s home or one of his homes following the gift being made, up to the date Mary dies or the point she ceases to live in the property, if earlier. For example if Mary went into care.

c) Mary must meet at least her full share of the ongoing running costs of the property such as the utility bills, repairs and capital improvements.

Example:

► John spends 20% of his time living with Mary and 80% at his other house.

► Assuming John can demonstrate, if required, that both properties are his home, he should meet no more than 10% of the running costs of Mary’s residence, otherwise there is a danger that HMRC could argue that Mary is enjoying a benefit from occupying the property after the gift was made, due to the fact that John has met some of her outgoings.

It is important that evidence should be kept from the off, as regards this arrangement, in case HMRC want proof to support the undivided IHT share claim such as:

► The legal documentation regarding the gift.

► The various invoices and who paid what in respect of those bills.

► Genuine proof that this was the recipient’s home (or one of them).

For example:

a) Dates of when they occupy the property.

b) They are on the title deeds, the house insurance and registered for council tax.

c) A house key.

d) Name on the invoices.

e) On the electoral roll.

f) Notification to HMRC and other organisations of this being their home address.

g) Photographic evidence showing them residing there.

h) Facebook posts.



TIP...

If you want to go down the undivided share route or you want to review your inheritance tax position in general please do not hesitate to contact us.

Self-employed beware 2024

In the past the self-employed (S/E) were normally taxed on the profits per the accounts which ended in that tax year. **From now on, they will be taxed per the profits earned in the tax year irrespective of the period they draw up their accounts.**

The present 2023/24 tax year is the transitional year where the S/E will move from the old system to the new one. This will only impact on the 400,000 S/E whose accounting period does not end between 31st March and 5th April, potentially resulting in a greater tax liability needing to be paid in January and July 2025 than under the old tax regime. This may be mitigated by:

- ▶ Utilising overlap relief. This usually arises upon commencing self-employment where some profits may have been taxed in both the first and second tax year.
- ▶ You can choose to tax some of the additional profit over 5 tax years.

Example:

- ▶ Mary draws up her accounts to 30th April each year.
- ▶ Her profit per the two accounts years ended 30th April 2023 and 30th April 2024 are £40,000 and £50,000.
- ▶ Mary's overlap relief is £5,000.
- ▶ Mary decides to spread the additional profit over 5 tax years.
- ▶ The additional tax and national insurance Mary may need to pay on 31st January 2025 and 31st July 2025 could be £2,610 (£2,700 Scotland) and £1,305 (£1,350 Scotland) respectively.



TIP...

If you think you might be caught by these changes, look to see if any planning can be done. Obtain a projection of what the possible tax liabilities might be so that monies can be set aside to meet them. We would be happy to carry out a review for you.



An average eclectic mix

It could be argued that farmers, artists, musicians, market gardeners and authors would be strange bedfellows but that is not the case in the tax world. They share a common relief known as averaging.

If you are a sole trader or a partnership where in excess of 50% of your income is derived from creative works, you can potentially average your profits over two consecutive tax years.

If you are a farmer or market gardener, as long as you are not carrying on an agricultural contracting trade and there are no substantial non-farming activities, you can go one better and possibly choose between averaging profits over 2 or 5 consecutive tax years.

Where averaging has taken place, the new averaged profits can be used in any claim for averaging in later years.

Depending upon the circumstances, **the potential benefits from averaging might be:**

► **A reduction in the total amount of tax and NI payable over the 2 or 5 year aggregated tax years.**

► Enabling an individual to pay more into their pension scheme.

► Mitigating or wiping out any high income child benefit charge.

There are conditions attached of course, such as:

► Companies or corporate partners cannot make an averaging claim.

► No claim can be made as regards the profits arising in either the commencement or cessation years of trading.

► **For a 2 year averaging claim to be made the average profit of the two years in aggregate must be more than 25% of the profits of the tax year with the better result, or one of the years the profit is nil (i.e. a loss making year).**

For example:

► William Shakespeare's profits for 2023/24 tax year were £10,000 and for 2022/23 tax year £40,000.

► If averaging is claimed the profit per tax year would be £25,000 which is greater than 25% of the 2022/23 profit figure – i.e. £10,000 (25% x £40,000).

► Therefore a claim can be made.

► **For a five year averaging claim to be made the difference between the current tax year profit and the average of the previous 4 tax year profits must be**

more than 25% of the highest profit or one or more of the tax year profits is nil.

For example:

► Farmer Massey's 5 years taxable profits are:



2023/24	£60,000
2022/23	£50,000
2021/22	£20,000
2020/21	£50,000
2019/20	£20,000

► If averaging is claimed the profit for each year becomes £40,000.

► The average profits for the tax years 2019/20 through to 2022/23 inclusive are £35,000.

► The difference between Massey's profits for 2023/24 of £60,000 and the average of the previous 4 tax years is £25,000. This is greater than 25% of the highest profit figure, i.e. £15,000 (25% of £60,000).

► Therefore a claim can be made.



Please do not hesitate to contact us if you would like us to review your situation to see if an averaging claim is feasible and of benefit to you.



We are here to help

We can help you by ensuring that you're aware of the changes that will affect you, your family and your business. To find out more about the ways that we can help you, do not hesitate to contact us.

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