

## FINANCE BILL 2025-26 CLAUSE 62 AND SCHEDULE 12 INHERITANCE TAX: AGRICULTURAL PROPERTY RELIEF AND BUSINESS PROPERTY RELIEF

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### BRIEFING FOR MPS ON THE **FINANCE BILL** BY ICAEW TAX FACULTY

Family businesses and farms are fundamental to the government's mission to drive growth and create jobs in the UK economy.

The government did not undertake a proper consultation on the reforms to agricultural property relief (APR) and business property relief (BPR) since they were announced on 30 October 2024. As a result, the practical design and implementation of the policy has attracted public concern and remains problematic despite some significant changes. The technical consultation in January 2025 had a narrow focus on the impact on trusts. Representations from professional bodies and other interested parties, particularly on the wider points that affect farms and businesses, have largely been ignored.

This has led to changes being announced on three different dates. This uncertainty has not helped business owners who have been taking advice and making decisions since October 2024 regarding jobs and capital investment. The elderly and infirm, who over time may lose legal capacity to change their Wills, also need certainty when planning for the succession of their businesses. We urge the government to use the Finance Bill process to resolve the remaining uncertainties.

Internationally recognised as a source of expertise, ICAEW Tax Faculty is a leading authority on taxation and is the voice of tax for ICAEW. It is responsible for making all submissions to the tax authorities on behalf of ICAEW, drawing upon the knowledge and experience of ICAEW's membership. The Tax Faculty's work is directly supported by over 130 active members, many of them well-known names in the tax world, who work across the complete spectrum of tax, both in practice and in business. ICAEW Tax Faculty's *Ten Tenets for a Better Tax System* are summarised in Appendix 1.

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## AN OVERVIEW OF THE MEASURES

1. At the Autumn Budget, the government announced that 100% APR and BPR would be limited from April 2026 to a combined total of £1m per person in a seven-year rolling period (10 years for trusts), with the excess value attracting 50% relief. On [23 December 2025](#) the government announced that the 100% allowance will increase to £2.5m for individuals and trusts. This was a measure ICAEW had recommended to the government.
2. The 100% relief allowance will be uplifted for inflation from 6 April 2031.
3. At the Budget on [26 November 2025](#), the government announced that the 100% allowance that is unused on the death of the first spouse or civil partner will be transferrable to their surviving spouse or civil partner (new s124E). This aligns the treatment with that of the nil rate band (£325,000) and the residence nil rate band (£175,000) and will greatly simplify the position for married couples. ICAEW welcomes this measure.
4. Payment of IHT by 10 annual interest-free instalments will be extended to all assets that are eligible for BPR.
5. The rate of BPR on unquoted companies that are traded on smaller stock exchanges, such as AIM, will reduce to 50% and will not use up the 100% relief allowance.
6. UK agricultural property held in overseas structures will no longer be excluded property for IHT purposes in relation to an individual or settlor who is not a long-term UK resident.

## OUR CONCERNS AND OUR RECOMMENDATIONS

### Lack of tapering for the elderly or those with a short life expectancy

7. ICAEW believes that the government should introduce a tapering in the value of lifetime transfers made between 30 October 2024 and 5 April 2026, where the death occurs on or after 6 April 2026 but within seven years of any lifetime transfers. Business owners and farmers have arranged their affairs on the basis that they could pass on their businesses free of IHT on their death, legislation that has existed for a generation. Elderly clients or those in poor health are unlikely to survive the seven years needed for any lifetime gifts to be exempt from IHT. Taxpayers may also lack the legal capacity needed to amend their Wills, although we acknowledge that the Budget announcement that the 100% relief allowance will be transferable between spouses will go some way to alleviating this issue. These are the taxpayers who will be unduly prejudiced if tapering is not introduced.

### Excepted assets for BPR

8. We are concerned that businesses that retain cash to fund an expected future IHT liability of an owner will be treated as an excepted asset under s112, IHTA 1984. Section 112 denies BPR on the value of 'excepted assets' which are not used wholly or mainly in the business, or which are not required for future business use. Excepted assets can include cash and bank balances that are surplus to the day-to-day working capital requirements of the business and which have not been earmarked for a future purchase or expansion. ICAEW recommends that amounts retained to fund an IHT liability should not be treated as an excepted asset.

### Raising the funds to pay IHT when the value of a business exceeds the 100% relief allowance

9. Business and farm owners whose business is worth more than their 100% relief allowance will now have to consider how the previously unanticipated IHT liability will be paid after their death. Company shareholders will be particularly affected because the value is locked into their business. If funds are extracted from a company as dividends in order to pay the IHT, the dividend will create an income tax liability for the deceased's estate.

10. Section 1033, CTA 2010 and subsequent sections prevent a company buy back of shares, under the Companies Act 1985, from being taxed on the shareholders as an income distribution (ie, a dividend). If various conditions are met, the amount paid by the company is instead treated as a capital gains tax receipt for the disposal of the shares.
11. Condition B at s1033(3) provides that one of the eligible reasons for the buy-back includes raising funds to pay IHT within two years of the death of a shareholder. The new option at para 13, Sch 12 (amending s227, IHTA 1984) to pay IHT by ten annual instalments on all BPR-eligible assets creates a timing mismatch, because a purchase of own shares must be carried out within two years of death.
12. Condition B can also only be considered if the IHT liability could not be paid from other estate funds without causing 'undue hardship' (s1033(4)), however this term is not defined in legislation.
13. If Condition B is not met, then the shareholders must rely on Condition A at s1033(2) instead, however that requires the main reason for the buy back is to benefit the company's trade. This test is unlikely to be met when funds are being raised to pay IHT.
14. Trusts, which were created on the assumption that unlimited APR and BPR would continue to be available, may hold few assets other than shares in a company and will struggle to fund an IHT liability on 10-year and exit charges. Trustees cannot currently take advantage of the purchase of own shares provisions and ICAEW recommends that this is changed.

### **IHT valuations – periods of validity**

15. Trusts which make multiple capital distributions to beneficiaries in each 10-year IHT cycle, which can be as often as every quarter (three months), will need to value each distribution and account for any IHT once the cumulative distributions exceed the trust's 100% relief threshold. It is impractical to have to agree a valuation with HMRC every time a distribution is made, so certainty is required as to how long HMRC will consider a valuation to be valid for.

### **SUGGESTED AMENDMENTS**

16. We believe that the following amendments should therefore be made to the taxes acts:

#### **Section 112, IHTA 1984 – excepted assets for BPR**

17. We suggest that s112 is amended to include a specific exclusion that funds retained by a business to fund a reasonably (or even professionally) estimated future IHT liability related to the business assets, will not be treated as an excepted asset.

#### **Chapter 3, Part 23, Corporation Tax Act 2010 (CTA 2010) – a company purchase of own shares**

18. We recommend that the following changes be made to the purchase of own shares legislation in CTA 2010:

- Section 1033(3) should be amended to align the timings, so that purchases of own shares can be carried out within 10 years of the end of the month of death, where the IHT instalment option under s227 IHTA 1984 has been taken up.
- Section 1033(3) should also be amended (or a new subsection inserted) so that trusts can also benefit from the purchase of own shares legislation.
- The term 'undue hardship' at s1033(4) should be defined in legislation. It should also be supported by guidance and examples in HMRC's company taxation manual.
- The existing advance clearance provision at s1044 should allow a one-off application covering multiple purchases of own shares that may be needed in the 10-year instalment

period and which can only be carried out as and when the company has sufficient funds to buy back the shares.

### **IHT valuations – period of validity**

19. We also recommend that HMRC provides guidance on how long a business's IHT valuation is valid for and we suggest a minimum validity period of two years, provided there has been no fundamental change in the business. The concept of 'a fundamental change in the nature or conduct of a trade' already exists in other areas of legislation, for example in s673, CTA 2010.

### **FURTHER INFORMATION**

As part of ICAEW's Royal Charter, we have a duty to inform policy in the public interest.

## APPENDIX 1

### ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.
4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as **TAXGUIDE 4/99**.