



Inheritance Tax Planning with a Power of Attorney

Under the laws of England and Wales, a Power of Attorney (POA) gives a designated agent permission to invest money on behalf of a client who has diminished mental capacity. The money must be invested for the benefit of the client, and not any future beneficiaries of the money.

The agent is not permitted to give money away (gifting) or place money under a trust without the express permission of the Court of Protection. Gifts and trusts take seven years to be fully effective for Inheritance Tax (IHT) purposes. And of course, gifting and trust investments are by definition intended to benefit others, rather than the client themselves.

Where an agent knows the client wishes to protect their estate from IHT for passing down to their friends and family, there are alternative investment strategies using Business Relief (BR) qualifying investments that can be explored. Shares in BR-qualifying companies must be held for a minimum of two years and at the time of death to qualify.

Benefits of tax-efficient investments are subject to change and personal circumstances.

Don't invest unless you're prepared to lose all the money you invest. This is a high-risk investment and you are unlikely to be protected if something goes wrong.

[Take 2 minutes to learn more on page 4](#)

Meet the Client

Wayne is a designated agent with POA, acting on behalf of his client, Martin. Wayne has approached his financial adviser to seek guidance on how to follow Martin's instructions to mitigate any IHT that will become due on his client's cash holdings which are over the nil rate band. The cash holdings total £400,000 and his client is not married.

Wayne had been considering gifting the money out between Martin's children. The adviser explains that in order for the gift to be exempt from IHT, it would take seven years, which Wayne explains is an unlikely scenario given his client's health.

The adviser completes a thorough review of Martin's finances, explains the risks associated with investing, and assesses the likely financing that Martin may need to pay for his healthcare in the future. Wayne and his adviser are both satisfied that the full £400,000 can be invested, with a goal of achieving IHT relief in a short timeframe.

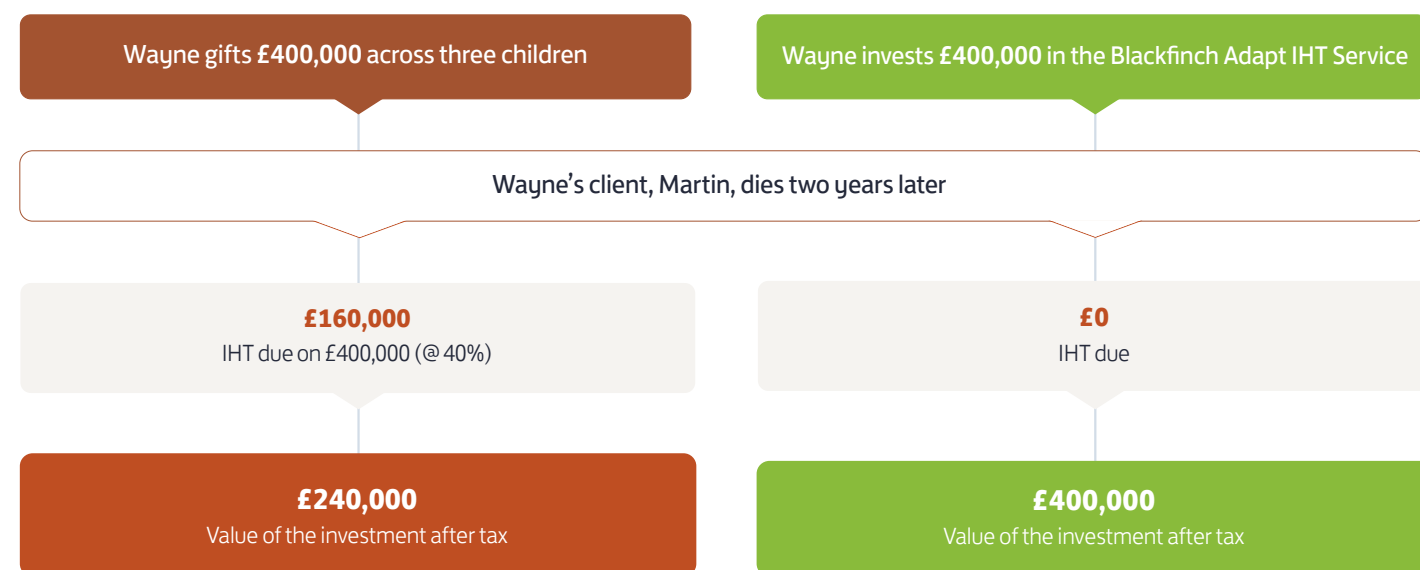
The adviser explains to Wayne that clients who have lost mental capacity can still invest in Business Relief (BR) qualifying investments without the need for, or costs associated with, applying to the Court of Protection. This is because the investment is written in the client's name, and is acting in their best interests. If desired, for peace of mind, an agent can still

apply to the Court of Protection to validate that they are acting in the client's best interests.

As the client hasn't given money away, or placed it into a trust, the investment is always available to the client for their benefit and wellbeing during their lifetime, subject to liquidity.

Any estate planning that uses BR should be considered, after charges, as a standalone investment for the benefit of the client during their lifetime, rather than purely relying on the ultimate benefit of the IHT saving. BR-qualifying investments can achieve up to 100% IHT relief if held for two years and at the time of death.

Let's look at how the value of his cash holdings could change using two different strategies (both examples assume the client has exhausted all applicable reliefs):



Clients must be advised that fees may apply. Please refer to our product literature for further details.

Inheritance Tax

Everyone has an allowance of £325,000, known as the nil rate band (frozen until 2030), which they can leave to beneficiaries free of IHT. If the individual has an estate valued above this amount, it could be subject to IHT at a rate of up to 40%.

Residence Nil Rate Band

Introduced in 2017, the Residence Nil Rate Band (RNRB) is an additional IHT relief that can be claimed against the value of a main residence. The RNRB is currently £175,000. RNRB rates are frozen until 2030 and is only applicable to one home of which the deceased has lived and owned at some point, and is being passed on to direct descendants (e.g. children or grandchildren). RNRB starts to be reduced where the death estate exceeds a £2m taper threshold.

Supporting the UK Economy

Certain businesses qualify for Business Relief, including shares in many AIM-listed firms. Unlike traditional IHT solutions, which can invest globally, clients' money is invested in BR-qualifying firms, that are predominantly UK-based.

Advantages of BR



Can help preserve a family's wealth



Transfer by way of gift:

If the individual (donor) holds BR-qualifying shares for 2 years before gifting, and the recipient of the gift still holds the shares at the time of the donor's death, the investment retains its IHT Relief for the donor whilst also reducing the value of the estate.



Transfer into Trust

If the shares were already held for two years before the transfer into trust, the potential lifetime charge to IHT is reduced from 20% to zero.



Only takes 2 years to qualify for BR

Shares must be held at the time of death.



BR assets can replace each other



Upon death there are various options

- Shares can be encashed and distributed to beneficiaries.
- Shares can be encashed, and proceeds paid to HMRC to pay any IHT bill due on the estate (Direct Payment Scheme).
- Shares can be passed down to beneficiaries who can then retain them. If the original owner had held the shares for over two years, the shares would be immediately BR qualifying in the beneficiary's estate.



New Business Relief rates will apply from April 2026. Please refer to the Guide to Business Relief for further information.



Risks

Due to the potential for losses, the Financial Conduct Authority (FCA) considers this investment to be high risk.

What are the FCA key risks?

1 - You could lose all the money you invest

If the business you invest in fails, you are likely to lose 100% of the money you invested. Most start-up businesses fail.

2 - You are unlikely to be protected if something goes wrong

Protection from the Financial Services Compensation Scheme (FSCS), in relation to claims against failed regulated firms, does not cover poor investment performance. Try the FSCS investment protection checker. (<https://www.fscs.org.uk/check/investment-protection-checker>)

Protection from the Financial Ombudsman Service (FOS) does not cover poor investment performance. If you have a complaint against an FCA-regulated firm, FOS may be able to consider it. Learn more about FOS protection. (<https://www.financial-ombudsman.org.uk/consumers>)

3 - You won't get your money back quickly

Even if the business you invest in is successful, it may take several years to get your money back. You are unlikely to be able to sell your investment early.

The most likely way to get your money back is if the business is bought by another business or lists its shares on an exchange such as the London Stock Exchange. These events are not common.

If you are investing in a start-up business, you should not expect to get your money back through dividends. Start-up businesses rarely pay these.

(<https://www.financial-ombudsman.org.uk/consumers>)

4 - Don't put all your eggs in one basket

Putting all your money into a single business or type of investment for example, is risky. Spreading your money across different investments makes you less dependent on any one to do well.

A good rule of thumb is not to invest more than 10% of your money in high-risk investments. (<https://www.fca.org.uk/investsmart/5-questions-ask-you-invest>)

5 - The value of your investment can be reduced

The percentage of the business that you own will decrease if the business issues more shares. This could mean that the value of your investment reduces, depending on how much the business grows. Most start-up businesses issue multiple rounds of shares.

These new shares could have additional rights that your shares don't have, such as the right to receive a fixed dividend, which could further reduce your chances of getting a return on your investment.

If you are interested in learning more about how to protect yourself, visit the FCA's website.

(<https://www.fca.org.uk/investsmart>)

IMPORTANT INFORMATION

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