Don't invest unless you're prepared to lose all your money invested. This is a high risk investment. You could lose all the money you invest and are unlikely to be protected if something goes wrong. Take 2 minutes to learn more on page 3

BLACKFINCH INVESTMENTS

Inheritance Tax Planning with a Power of Attorney

Please note:

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

Business Relief rules are changing in April 2026. See the Guide to Business Relief for more information.

When it comes to acting in the best interests of a client with diminished mental or physical capacity, understanding the role and scope of powers of attorney (POA), particularly when it comes to inheritance tax (IHT) planning is essential. With this in mind, we wanted to give advisers a quick guide to the key elements of estate planning for clients where a POA is in place.

Legal Obligations versus a Limited Time Horizon

Under the laws of England and Wales, a POA gives a designated agent permission to invest money on behalf of the client. An agent is not permitted to give money away (gifting) or place money under a trust without the express permission of the Court of Protection. Even if this were granted, it can take seven years to become fully effective for IHT planning purposes. This is because, in the court's view, money has to be invested for the benefit of the client, not the ultimate beneficiaries. And of course, gifting and trust investments are by definition intended to benefit others, rather than the client themselves.

Therefore, a POA must apply to the Court of Protection to seek permission to gift or place money under trust. In the application, the POA needs to prove the client is never likely to need that money in the future to maintain their current standard of living. If this cannot be proved, the Court will decline the request.

However, should the Court of Protection agree to the request for a trust or gift to be put in place, this will take seven years to become fully effective for IHT planning purposes. Unfortunately, the average life expectancy for a person funding their move into long-term care is just two to four years.[1] This means that for many clients where a POA is in place, it may be too late to enact trusts or gifts from an IHT planning point of view.

[1] *Source: www.thisismoney.co.uk/money/pensions/article-1707291/Elderly-care-what-you-uneedu-to-know*

The Benefit of Business Relief

Fortunately, there are other alternatives for clients and their families, as well as solicitors, to consider. 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 BR, an IHT relief that was introduced in 1976, allows qualifying investments, including shares in unquoted firms, to achieve up to 100% IHT relief after just two years, provided the shares are still held at the time of death.

The investment is written in the client's name. 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. In other words, there's no detriment to the client from an access point of view, and therefore no need for the Court of Protection to grant permission.

However, 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. Of course, it is the client's beneficiaries who will ultimately benefit from the estate planning (and resulting tax savings) undertaken during the client's lifetime.

Offering Clients a Swifter Route to IHT Exemption

Our Adapt IHT Service is an excellent low-volatility solution for clients and their families.

We only invest in BR-qualifying UK opportunities, operating across renewable energy generation and energy infrastructure assets, property development finance, asset-backed lending and forestry.

The Adapt IHT Service invests in a small unquoted company which makes it suitable for clients seeking returns that are uncorrelated to the stock market. In addition, the Adapt IHT Service aims to preserve capital, and targets a steady return of between 3%-5% per annum.

About Blackfinch

Blackfinch is a well-established provider of IHT solutions that qualify for BR. As a tax-efficient specialist, we work closely with financial advisers, to help them meet the investment needs of their clients, particularly those with estate planning needs or IHT liabilities. Our expert team can also help to open up new business opportunities, including professional connections with accountants and solicitors.

Our Adapt IHT Service is a flexible investment solution designed to achieve IHT relief and investment returns, without the need to apply to the Court of Protection or wait seven years for proceeds to become IHT exempt. Even with a POA in place, the client never loses access to their capital, should it be needed. A designated agent can leave capital invested for growth or can take regular withdrawals, knowing that whichever they choose, the investment will offer a swifter route to full IHT relief, benefitting both the client and their beneficiaries.

Blackfinch offers a number of investment solutions, to address a range of client objectives.

Request an illustration, apply online, or get in touch with your local Business Development Manager (BDM) today.

Create an Illustration **Apply Online** **Speak to your BDM**

IMPORTANT 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).