

Sale of a Business

Scenario

There are many reasons why a client might be thinking about selling their business – retirement and ill health are just two of the most common motivations. Whatever the reason, clients often neglect to review the inheritance tax (IHT) implications that could arise from selling their business. This is particularly important in instances where the client’s business qualified for Business Relief (BR), as the sale of the business is likely to mean the proceeds become liable to IHT.

A Potential Solution

One useful option available to clients would be to reinvest the proceeds from the sale of their business into an investment that qualifies for BR. Provided the proceeds were reinvested within three years of the date of sale, this would mitigate the IHT liability while ensuring the client retained control over, and access to, their money.

The client can expect to either retain or regain IHT exemption on the proceeds almost immediately (as soon as the week after making the investment), which could prove particularly important for a client in ill health.

Also, clients do not have to wait a further two years for their BR-qualifying investment to become free from IHT. Once the proceeds have been invested, their investment benefits from ‘Replacement Relief’. This allows business owners and investors to replace one BR-qualifying asset with another within three years, without ‘resetting’ the two-year holding period.

Providing the client holds the BR-qualifying investment at the time of death, and it has been held for at least two out of the last five years (this could be two 12-month periods or any other combination) the investment is exempt of inheritance tax.

For clients, one of the most appealing aspects of this solution is that it ensures they retain control over their investment, without having to 'gift' money away to reduce their IHT liability. The money is available should they need it to pay for care costs or any other outgoings, although any money withdrawn from the investment no longer becomes IHT-free and could form part of their taxable estate.

A Useful Example to Raise with Clients

An interesting court case example often referred to when discussing IHT planning is the case of *Swain v Mills and Reeve*, which took place in 2012. In this case, a firm of solicitors acted for a client in relation to the sale of his company via a management buyout (MBO). Shortly after the MBO took place, the client underwent heart surgery and died from complications. This resulted in the clients' children being left with an IHT liability that would not have arisen if the client had their assets (re)invested in other qualifying BR assets. A claim was brought by the client's children alleging the solicitor had been negligent in not referring the client for IHT advice in this situation.

Blackfinch is an established provider of tax-efficient solutions.

If you would like to find out more about our IHT solutions and how we can support your work with clients, please call us on **01452 717070**, email **enquiries@blackfinch.com** or visit **www.blackfinch.com**.

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