NEXUS

PROTECTING YOUR WEALTH AND YOUR FUTURE

ISSUE 4

In this edition:

hcrlaw

Contents

WELCOME

As we navigate through 2025, the world around us is transforming rapidly. With new tax rules, shifting regulations and global uncertainty, we are all facing the challenge of navigating a brave new world.

In this fourth edition of Nexus, our experts guide you through the key legal and financial changes shaping this new landscape.

With major reforms to Agricultural and Business Reliefs on the horizon, we examine the impact on farming families and share one family's story as they face difficult decisions to secure their future.

The implementation of a 'freezer' and 'growth' share scheme is one strategy that could help family businesses limit their exposure to IHT, and we explain how this approach can support effective succession planning.

With the prospect of pensions being subject to IHT from April 2027, we consider whether SIPPs and SSASs remain a smart option for holding land and building long-term wealth.

We look at the end of non-dom status and what it means for those living in or considering a move to the UK. We also explore the Global Talent Visa, who qualifies and what it offers for international mobility.

We also unpack the hidden risks of gifting to children, particularly around protection on divorce, and how to ensure your intentions are preserved.

In a changing property market, we outline what overseas buyers need to consider when purchasing UK property and how the evolving tax rules may influence investment decisions.

Charity registrations continue to be tightly scrutinised. Only 54% are successful, and our checklist helps ensure your application is one of them.

Ultimately, our aim with all our articles is to give you clear, practical insights to help you protect what matters most and plan with confidence for the future.

I hope you enjoy this edition and find it a useful read.

Bernadette O'Reilly
Partner, Private Client

This is intended as market insight and does not constitute legal advice.

HOLDING LAND IN SIPPs OR SSASs - IS THIS STILL A SMART OPTION?

A Self-Invested Personal Pension (SIPP) and a Small Self-Administered Scheme (SSAS) are types of registered pension schemes which you or, in the case of a SSAS, your employer, can set up. They are often used by self-employed people or business owners and give more flexibility than other pension schemes, as they have fewer investment restrictions.

SIPPs and SSASs are often used to hold real property (other than direct or indirect holdings in residential property which would fall foul of the taxable property restrictions), and acquire such property directly, via its trustees. To benefit from the tax advantages available to pension schemes, a SIPP or SSAS must be registered with HMRC.

What is real property?

Property consisting of land or buildings

What are the benefits of holding real property in a SIPP/SSAS?

- Tax-free growth - any increase in the property's value is exempt from capital gains tax, even when the property is sold
- Income generation - rental income earned from the property within the SIPP/SSAS can contribute to your pension income
- Tax relief - contributions to the SIPP/SSAS benefit from pension tax relief at 20% for basic-rate taxpayers and up to 40% for higher-rate taxpayers
- Long-term capital appreciation - property can be a strong long-term investment, especially in low-inflation or low-interest environments, often seen as a "safe bet" for building wealth
- Borrowing abilities - a SIPP/SSAS can borrow an amount up to the equivalent of 50% of the net value of its fund immediately before the borrowing takes place to, for example, purchase property (any borrowing exceeding that limit would be subject to a scheme sanction charge of 40% payable by the SIPP/SSAS administrator).

What are the downsides to holding real property in a SIPP/SSAS?

- Rising costs - the overall cost of owning property in the UK is increasing. This includes new regulatory requirements for rental properties and rising business rates, both of

which can reduce the net return to the SIPP/SSAS

- Management burden - trustees are responsible for tasks such as rent reviews and compliance with regulations like the Minimum Energy Efficiency Standards (MEES) for commercial properties. These obligations are becoming more time-consuming and expensive
- Property-specific risks - holding property comes with inherent risks, such as difficulties in regaining possession from tenants.

What did the Budget in October 2024 change?

The chancellor has announced that, starting in April 2027, all uncrystallised pension pots, including SIPPs and SSASs, will be considered part of your estate for Inheritance Tax (IHT) purposes. This means the uncrystallised value of your SIPP/SSAS will now fall within the scope of IHT.

Notably, the government has clarified that if a SIPP/SSAS holds assets that would normally qualify for IHT relief – such as Agricultural Relief (AR) or Business Relief (BR) (e.g. a farm) – those pots will not have their own allowances, rather they will need to share the deceased taxpayer's allowance. The implications of this are far-reaching, particularly given the number of people who hold valuable real property within their SIPP/SSAS. Serious thought will need to be given to the lack of liquidity of many SIPPs and SSASs and how any future tax charge will be met.

The changes could also introduce an element of double taxation, any uncrystallised funds in the SIPP/SSAS being subject to IHT at a rate of 40% when the member dies and a further charge to income tax (if the pensioner dies aged 75 or over) when the beneficiary of the inherited pension draws it down. This could create an effective rate of tax of 67% for the highest earners.

SIPPs/SSASs PROVIDE A TAILORED APPROACH TO BUILDING WEALTH OVER THE LONG TERM

There is a further knock-on effect for IHT allowances. In order to benefit from the Residence Nil Rate Band (RNRB) allowance, which can provide an additional £175,000 tax-free amount per taxpayer to set against the value of their home, the taxpayer's estate must be worth less than £2 million. It looks likely that uncrystallised pension pots will be taken into account when considering this threshold, pushing many over the £2 million mark and, in turn, losing a valuable relief.

It should also be noted that the new rules will place a much higher administrative burden on SIPP/SSAS administrators, requiring them to liaise with the deceased taxpayer's personal representatives to complete any necessary tax reporting and tax payments. This will likely delay access to pension funds for beneficiaries, who previously would have been able to obtain access to a pension more readily than the deceased taxpayer's other assets.

Possible solutions

By its nature, a SIPP/SSAS restricts access to its assets until the beneficiary reaches pensionable age. The SIPP trustees could choose to sell a real property asset and reinvest the proceeds into other asset classes, such as bonds or stocks, to create greater liquidity. However, this could pose significant challenges for individuals who rely on land held within their SIPP/SSAS for use in their business operations.

Despite what many anticipated, the budget did not make any changes to the ability to withdraw a 25% tax-free lump sum on becoming entitled to other benefits under a SIPP/SSAS. There may be opportunities to use this to restructure pension pots and withdraw certain classes of assets.

For those who treated their SIPPs/SSASs as akin to a family trust and would not need access to assets to fund their retirements, there are a raft of other IHT and succession planning strategies on offer.

Maximising retirement wealth

In conclusion, SIPPs/SSASs offer a powerful and flexible wealth management tool, allowing individuals to take control of their retirement savings. With the ability to invest in a broad range of assets, including stocks, bonds, and even commercial property, SIPPs/SSASs provide a tailored approach to building wealth over the long term.

Whilst they come with certain complexities and risks, the potential for current income and capital gains tax advantages still makes them an attractive option for those looking to maximise their retirement wealth. As with any investment strategy, it's essential to carefully consider personal financial goals and seek professional advice to ensure SIPPs/SSASs are the right fit for your situation. Before the changes to pension taxation come into effect, we would recommend undertaking a review to ensure any new IHT exposure is planned for and can be managed effectively.

Christopher Nuttall
Head of Pensions

Stephanie Dennis
Partner, Agriculture and Estates

THE HIDDEN RISK IN GIFTING - WHAT HAPPENS WHEN CHILDREN DIVORCE?

With the upcoming changes in Inheritance Tax (IHT), parents are increasingly seeking ways to gift money to their children during their lifetimes to avoid or reduce IHT.

If parents are planning to gift or loan money to their children, it's not only important to obtain advice on the most efficient way to do this, but consideration must also be given to their children's relationship status. If children are married, or planning to marry, the implications of any future divorce must be considered. Gifting money could affect a later divorce settlement, and the child's spouse may benefit from the parents' gifts. It's therefore important to understand the family court's approach to divorcing couples in such situations and how monies may be protected.

Divorce and the family court's approach

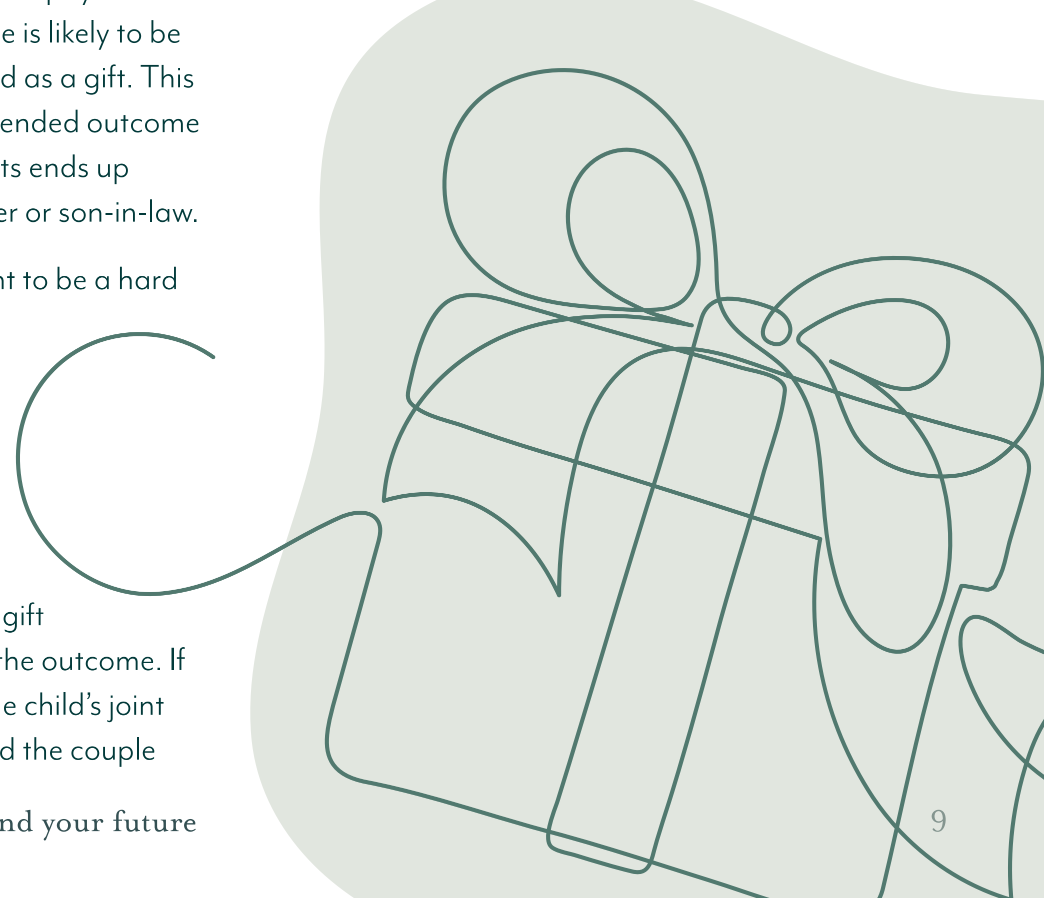
Whether the court considers a payment from parents to be a gift or a loan can have a significant impact on a divorce settlement. A gift can form part of the pot for distribution to the divorcing couple, whereas a loan would be included as a debt on the balance sheet and deemed repayable.

When determining this type of payment in divorce proceedings, reference is often made to it being either a "soft loan" or a "hard loan". A payment in the absence of any other evidence is likely to be considered a soft loan and regarded as a gift. This means that there could be an unintended outcome in that the payment from the parents ends up benefitting their estranged daughter or son-in-law.

A court will only consider a payment to be a hard loan, and thus repayable, if it has the feel of a normal commercial arrangement. It's a high bar to get over to convince the court that the payment was intended to be a loan.

If the payment was a gift, how that gift was used could have a bearing on the outcome. If a gift of money was received into the child's joint bank account with their spouse, and the couple used it for their joint benefit, it's likely that what would otherwise be a non-matrimonial asset is in fact "matrimonialised", and therefore available for sharing on divorce. If a gift was kept entirely separate, it would be considered non-matrimonial. However, if there weren't enough matrimonial assets to meet the needs of the parties, the court might "invade" non-matrimonial assets to meet needs, or divide the matrimonial assets unequally, expecting the spouse with the gifted money to use that to meet their needs.

A PAYMENT IN THE ABSENCE OF ANY OTHER EVIDENCE IS LIKELY TO BE CONSIDERED A SOFT LOAN AND REGARDED AS A GIFT



How to protect payments in the context of divorce

Depending on the individual situation, the following options could be considered to help protect any gift from being shared during a divorce:

- If the payment is a loan, a formal loan agreement could be prepared to include interest payable, specific events that will trigger repayment of the loan, and an outline of repayments. However, a payment in the form of a loan would not reduce the parents' estates for IHT, as the money would still be due back to them
- A pre- or post-nuptial agreement, prepared to protect a gift
- A declaration of trust drawn up if property is purchased using the parents' money, and the parents' interest or share can be legally documented. Any share retained by the parents would still be in their estates for IHT
- A trust arrangement.

The above list is not exhaustive, and it's therefore important to obtain specialist legal advice on your individual circumstances. Failure to properly plan can be expensive and time consuming later.

Kate Grant
Head of Family, Thames Valley

Sally Robinson
Head of Family, Central England

Find out about our family services for high-net-worth individuals

THE STRUGGLE TO SAVE THE FAMILY FARM

The government's Autumn Budget brought unexpected change to the farming community, with an announcement that full Agricultural Relief (AR) and Business Relief (BR) for Inheritance Tax (IHT) would be capped at a combined £1 million.

The proposals, due to come into effect from 6 April 2026, will affect an estimated 75% of commercial family farms, according to research from the National Farmers Union (NFU).

The impact of these proposals is anticipated to hit farming families hard, with the NFU estimating that the majority of those farms would not be able to afford large IHT payments, even if staged over ten years, without selling off pieces of their land or business.

> EARLY ADVICE IS ESSENTIAL TO START THE IHT CLOCK RUNNING ON ANY GIFTS AND TRANSFERS

As a result, farmers may wish to consider the benefits of early gifting and transfers to family, in a bid to keep the farm alive and to ensure generational survival of their most prized asset and livelihood.

Early advice is essential to start the IHT clock running on any gifts and transfers, since no IHT is due on any gifts if you live for seven years after giving them, unless the gift is to a trust. Early advice also means that effective IHT planning can be undertaken at a time when the donors of the gifts have sufficient mental capacity to understand and make those transfers. However, what options are available when the farming family patriarch or matriarch lacks the mental capacity to engage in IHT planning themselves?

Authorised agents

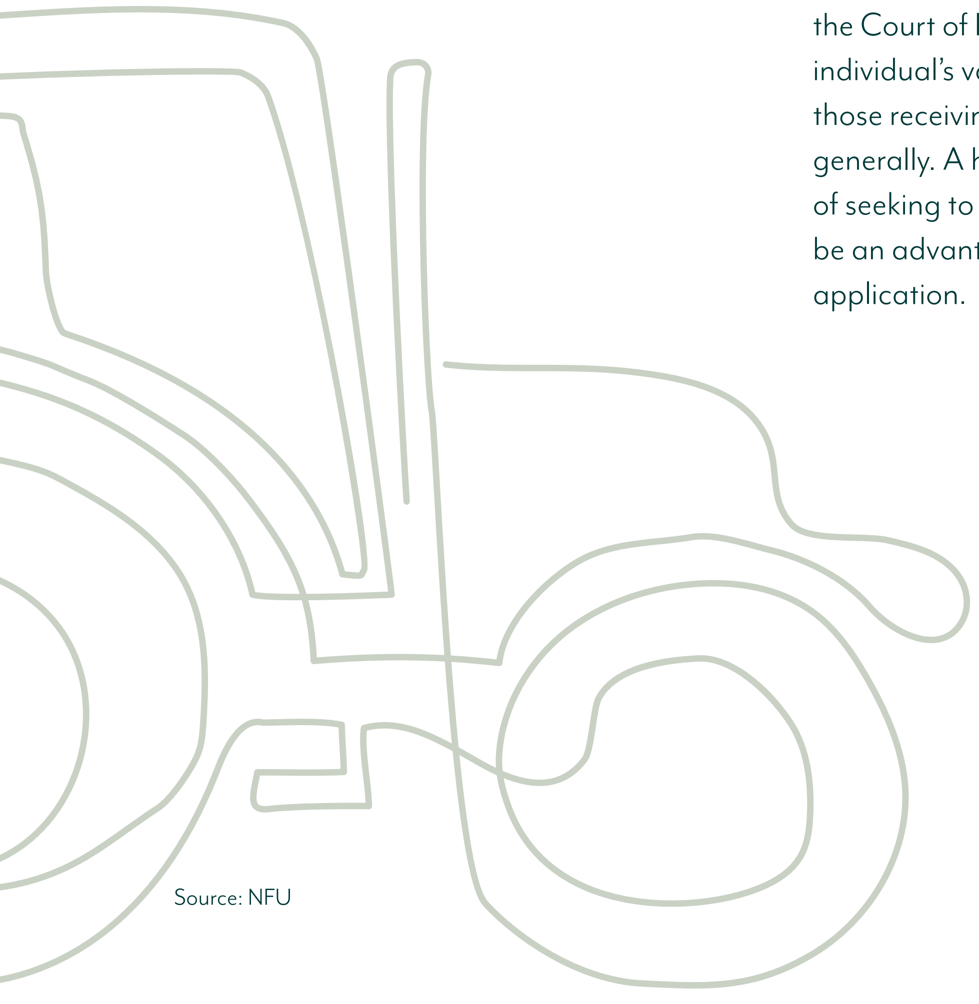
An incapacitated individual may be able to make gifts and undertake IHT planning if they have a person appointed to support them with those decisions. This could be an attorney acting under a Lasting Power of Attorney (LPA) or a deputy appointed by the Court of Protection.

Whilst this includes decisions around gifting, there are restrictions on the powers of the attorney or deputy to make gifts, and guidance is contained within section 12 of the Mental Capacity Act 2005 (MCA).

Under the MCA, an attorney under an LPA or a deputy is able to make gifts:

1. Only on customary occasions, such as birthdays, weddings and religious festivals
2. To a person or charity supported by, related or connected to the individuals they act for
3. Which are reasonable in value and proportionate to the size of the individual's estate.

These gifting powers are, however, unlikely to extend to land and property, so do little to support the current IHT issue for the farming community. For gifts outside of the usual powers above, the authorised agent would need to apply to the Court of Protection for authority to make the gift.



Proposed changes to IHT will affect more than 75% of UK farms

Source: NFU

Court of Protection – gifting applications

When approaching a gifting application to the Court of Protection, an applicant deputy or attorney will need to consider a number of evidential matters, including:

- The best interests of the individual concerned
- Their past and present wishes, thoughts and feelings
- Whether the gift or transfer is affordable and allows the individual's ongoing needs to continue to be met.

It can be tricky to justify whether the proposed application is in the best interests of the individual the application is about, since the individual themselves will not benefit from the IHT planning as its outcome takes place after their death.

Convincing a judge that the application's purpose (i.e. to reduce IHT) serves the individual's best interests can be a difficult hurdle to clear, although tax mitigation is a consideration within the wider application.

As well as considering the individual's best interests, the Court of Protection will also consider the individual's values, attitude and feelings towards those receiving the gifts, tax planning and gifting generally. A history of making substantial gifts or of seeking to mitigate the tax position will therefore be an advantage when it comes to this type of application.

In **Re MJL [2019]**, MJL had an estate of over £17 million and his care funding was paid entirely by the NHS.

His sibling sought authority to gift £1.2 million, being a gift out of historic surplus income, as well as a charitable gift of £789,591 and ongoing gifts out of surplus income for IHT purposes. Whilst some gifting was authorised, the application was challenged by the Official Solicitor on the basis of MJL's lack of enthusiasm for tax planning prior to losing capacity, as well as a lack of historic gifting.

In contrast, the earlier case of **PBC v JMA [2018]** saw the court approve substantial gifts of £7 million out of an estate worth £18 million. This was predominantly due to JMA's history of gifting and because it found tax planning to be consistent with JMA's previous actions and beliefs.

The judge commented that '...it's no part of the Court of Protection's function to protect either an inheritance or a revenue stream. Inheritance tax mitigating effects can in my view only meaningfully be considered in the best interests balancing exercise as a mechanism which either supports or goes against the particular individual's wishes and feelings, values and beliefs about gifting and tax planning.'

Find out about our service for supporting older and vulnerable people

Seeking advice on preserving wealth and early IHT mitigation advice is key, not only so that you know what your options are now, but to ensure that your approach to these matters is evidenced and crystallised, should you lose capacity at some point in the future.

Hope for the family farm

In the context of the family farm and changing IHT rules, there may now be more opportunity to approach the Court of Protection to authorise gifts and trust creation. Whilst yet to be tested, there is a bigger argument for gifting the farm when it comes not only to IHT mitigation, but to preservation of the family business, which may have existed for many generations.

The upcoming changes to rules around reliefs for farming businesses may also see judges take a more open-minded approach to the question of whether an incapacitated farmer cared about tax mitigation and advice. If capacity was lost prior to the 2024 Autumn Budget announcement, IHT may well not have been an issue which required advice and planning, and judges may be minded to take a sympathetic view in those circumstances.

The outcome of such an application remains to be seen, but what we can advise is that prevention is better than cure. If you have concerns about the preservation of the family farm, advice is better received sooner rather than later.

Tonina Ashby
Head of Older and
Vulnerable Persons Team

Assuming the new rules on AR and BR come into force as expected in April 2026, we will see significant challenges for family farming businesses. From that date, the combined 100% AR and BR will be restricted to £1m per individual. Any qualifying assets exceeding that threshold will only benefit from relief at 50%, or, in other words, be subject to an effective tax rate of 20%. For many family farming businesses, this could result in unexpected and substantial IHT bills.

Lifetime gifting will be part of the solution for many, but this relies on the asset holder having the necessary mental capacity to make the gift. Additionally, they will ideally survive the gift by seven years for it to fall out of the IHT calculation altogether. For older farmers and landowners, and particularly those with declining capacity, this is a significant issue.

Lisa Millington
Head of Agricultural
Private Client

OPPORTUNITY IN AN UNCERTAIN WORLD

Relocation and the global talent visa - a visa category for global leaders in their field

Many commentators have declared the advent of a new economic global order. Whether or not that proves to be true, changes in economic relations and geopolitics impact us all at some level. It has caused people to be concerned for their future and to reassess how and where they live, with many now looking to relocate and build a life elsewhere. An interesting and recent example of this is that during the US Presidential election in 2024, online searches relating to UK immigration by US nationals rose significantly, with searches up by 900% between 4 November 2024 and 6 November 2024 (the day before, during and after the US election).

The UK government has for some years now promoted the UK as a destination of choice for talented and economically and globally mobile individuals and families. The UK immigration system, particularly after Brexit, has emphasised attracting “the brightest and the best”, focusing on skilled workers and researchers. This was to be achieved in part through a points-based system, which requires that individuals either be sponsored to work in the UK or can demonstrate they score the requisite number of “points” to be issued with a visa by some other means, for example, via their graduation from a prestigious university, or their ability to invest in the UK economy through entrepreneurial activity or direct investment.

However, at the same time, UK immigration routes have faced increased scrutiny and many have been removed, notably the tier 1 investor and entrepreneur visa categories, which closed in 2019 and 2022, respectively, and (in respect of the former) without replacement. This has presented challenges to individuals and families with private wealth who wish to make the UK their home and for whom sponsorship is not appropriate.

It's against this backdrop that the spotlight has increasingly fallen on the global talent visa category, which offers a potential visa route and alternative to the other closed or significantly narrowed immigration routes. This trend appears set to continue following the recent publication of the Government Immigration White Paper which aims to "attract the most desirable talent" to the UK whilst reducing overall net migration, signalling the significant role of the category by expanding it so that it's "simpler and easier for top scientific and design talent" (in addition to other industries and sectors already covered by the visa).

What makes the global talent visa category attractive?

The global talent visa is designed to attract highly skilled individuals in specific sectors like science, research, digital technology, and the arts to work in the UK.

Similar to the now closed tier 1 investor visa, it also affords the visa holder unfettered access to the job market and freedom to establish businesses. It also allows the opportunity to obtain accelerated settlement (i.e. permanent residence) after three years when usually settlement can only be obtained after accruing five years in a qualifying immigration category. There is also no minimum English language requirement for this type of visa. It's therefore an attractive route without a sponsorship element or need to report economic activity to the Home Office.

A GLOBAL TALENT VISA ALLOWS THE HOLDER TO STAY IN THE UK FOR UP TO FIVE YEARS AT A TIME AND CAN LEAD TO INDEFINITE LEAVE TO REMAIN IN THE UK

This visa allows the holder to stay in the UK for up to five years at a time and can lead to indefinite leave to remain (ILR) in the UK or can be extended after the initial five-year period. It therefore offers a generous period of permission and flexibility in terms of the ability to extend time on the visa or to obtain permanent residence.

How does the global talent visa work?

The global talent visa category is designed for individuals who are leaders or potential leaders in certain fields of work, namely science, engineering, humanities, medicine, arts and culture, and digital technology.

The application process itself is in two stages. The first is an application to the relevant endorsing body for them to make a decision on whether an individual qualifies as a leader or potential leader under the criteria set out in the immigration rules. The second is the visa application itself.

The criteria differ depending on which discipline the visa is being applied for under and the corresponding relevant endorsing body's guidance.

What are the challenges of entry into the visa category?

Entry to the global talent visa category can be a challenge. Firstly, it's restricted to certain fields of work, which means that it may not be suitable for all individuals. It's important, therefore, to consider if the skills and experience are held in the relevant area.

Secondly, the visa category is aimed at individuals considered to be leaders, or potential leaders, in their field who must first obtain an endorsement from an endorsing body or have been awarded a prestigious prize. The bar is set high, and insufficient evidence to demonstrate leadership or potential leadership within a particular field can lead to refusal, even though the individual may be very talented.

Thirdly, assessment by the endorsing body has both objective and subjective aspects and is a very information-heavy and front-loaded process. Therefore, rigorous attention to evidence and the preparation of submissions for the endorsement application is key.

Finally, the endorsement application alone does not extend permission to stay in the UK, which may be a consideration if an individual's existing permission is coming to an end and there is a tight timescale for submission of a new application. For all of the above reasons, early advice is recommended.

Source: Fortune

Which endorsing bodies review applications in each sector?
(note that the below list is not exhaustive):

Tech Nation deals with technical and business skills in the digital technology sector

The British Academy oversees the law, education, media sectors

The Arts Council oversees the dance, literature, music, film and TV sectors

The Royal Academy of Engineering oversees the medicine, construction, energy and power sectors

The Royal Society oversees the chemistry, computer science, mathematics and clinical research sectors

Adam Cotterill
Senior Associate,
Employment and Immigration

Key considerations for overseas buyers looking to purchase a property in the UK

The UK residential property market remains a strong and stable proposition for overseas buyers. Whilst there are no ownership restrictions, foreign buyers should consider Stamp Duty Land Tax (SDLT) surcharges, tax obligations, financing challenges, and legal requirements before making a purchase. Here are some key points for consideration:

1 Identify the right location

Make sure you do your research so that you know the area in which you're looking to buy. Pay particular attention to which areas are seeing price rises and any areas which have been identified as 'up and coming'.

2 Identify the right type of property

Consider which types of properties are selling and renting quickly in your preferred area.

Are you looking to buy a house or a flat? Houses tend to be freehold, whereas a flat is likely to be leasehold - you need to be sure you understand the distinction.

3 Know your budget

There is more to buying a property in the UK than just the sale price. You need to budget for all the additional costs – legal fees, agents' fees, land registry fees and SDLT.

4 Understand your mortgage options

If you intend to borrow money to buy your property, as an overseas buyer, you may need to talk to a specialist lender, especially if an offshore company is involved.

Many UK lenders offer mortgages to non-residents, but their lending criteria can be much stricter. They may require larger deposits and you may be subject to higher interest rates.

5 Consider tax implications

Before committing to a property purchase, take advice from a tax advisor, so that you have a full understanding of any tax implications associated with your purchase, including, but not limited to, SDLT, Capital Gains Tax and income tax.

6 Be aware of SDLT and related surcharges

The UK government places an additional 2% surcharge which applies on top of all other residential rates (including the higher rates for additional dwellings) on non-UK residents who purchase property in England and Northern Ireland. For the purposes of calculating the surcharge, a buyer will be treated as a non-resident if they are not present in the UK for at least 183 days during the 12-month period prior to their purchase.

It's possible to claim a refund of the additional 2% surcharge if, after you complete your purchase, you're present in the UK for at least 183 days during any continuous 365-day period that falls within the two-year period ending 365 days after the date of completion.

There is an additional 5% surcharge added to the standard SDLT rate where you (or your spouse or civil partner) own more than one dwelling anywhere in the world. If you already own another property (which you do not intend to sell) you're advised to discuss your SDLT position with your solicitor.

7 Decide how you will own your property

Different property ownership options carry different potential tax liabilities.

Before you proceed with your purchase, you should consider the various options – personal ownership, company ownership and the creation of a trust – to see which option best suits your circumstances.

8 Consider the documentation you will need to buy a house in the UK

You will typically need proof of identity, proof of funds (and documentary evidence of their source) and a UK bank account. Further documentation may be required for your mortgage application.

As you can see, there's a lot to think about, so it makes sense to take professional advice before proceeding with your purchase of a UK property.

Samantha Houlden
Joint Head of Residential Property

WHAT NOW FOR NON-DOMS IN THE UK?

Despite lobbying by and on behalf of non-doms, the changes proposed to the taxation of non-domiciled individuals and offshore trusts came into effect on 6 April 2025. We summarised the key changes in our **last edition**. It was widely reported in the press that a number of non-doms had left the UK in advance of the changes coming into force. So, what now for those who remain or those considering a move to the UK?

Despite the introduction of this generally more onerous tax regime, in the context of global turbulence, there are some positives and opportunities worth noting:

- The Financial Times has reported that some Americans are considering temporarily moving their assets to the UK for fear of asset seizures. Some, of course, may also move. People wanting to move away from their home country on a temporary basis, perhaps due to instability or concerns about the rule of law in their home country, can take advantage of the four-year foreign income and gains (FIG) regime in the UK, assuming they have not been resident in the UK for 10 consecutive tax years. This would allow a breathing space for them where they could, if they made the relevant claims, not be liable to UK tax on overseas income and capital gains for a four-year period. They would also be free to bring such income and gains into the UK without a UK tax levy and would not be liable to UK Inheritance Tax (IHT) on their assets outside the UK for 10 years
- Non-doms already living in the UK, who have decided to remain despite the rule changes, should consider taking advantage of the temporary repatriation facility (if they qualify, having previously been remittance basis users) to bring foreign income and gains into the UK at reduced tax rates to fund their life in the UK for however long they plan to remain
- In some cases, double tax treaties may mitigate or negate the impact of the changes
- Individuals who, under the old regime, could not shift their UK IHT domicile despite having been non-resident for many years e.g. because they were originally UK domiciled and had not settled in any other jurisdiction permanently, will now only be within the UK IHT net if they are resident for 10 out of 20 tax years. This provides an opportunity for those individuals to return to the UK for a significant period, whilst ensuring their non-UK assets remain outside of the UK IHT net.

Talk to me about navigating the new tax landscape

Of course, people's circumstances vary, but the message for non-doms in the UK, and those planning a move to the UK, is to take advice on arranging your affairs so that you're best placed in this new tax landscape.

Bernadette O'Reilly
Partner, Private Client

Find out more about our immigration team

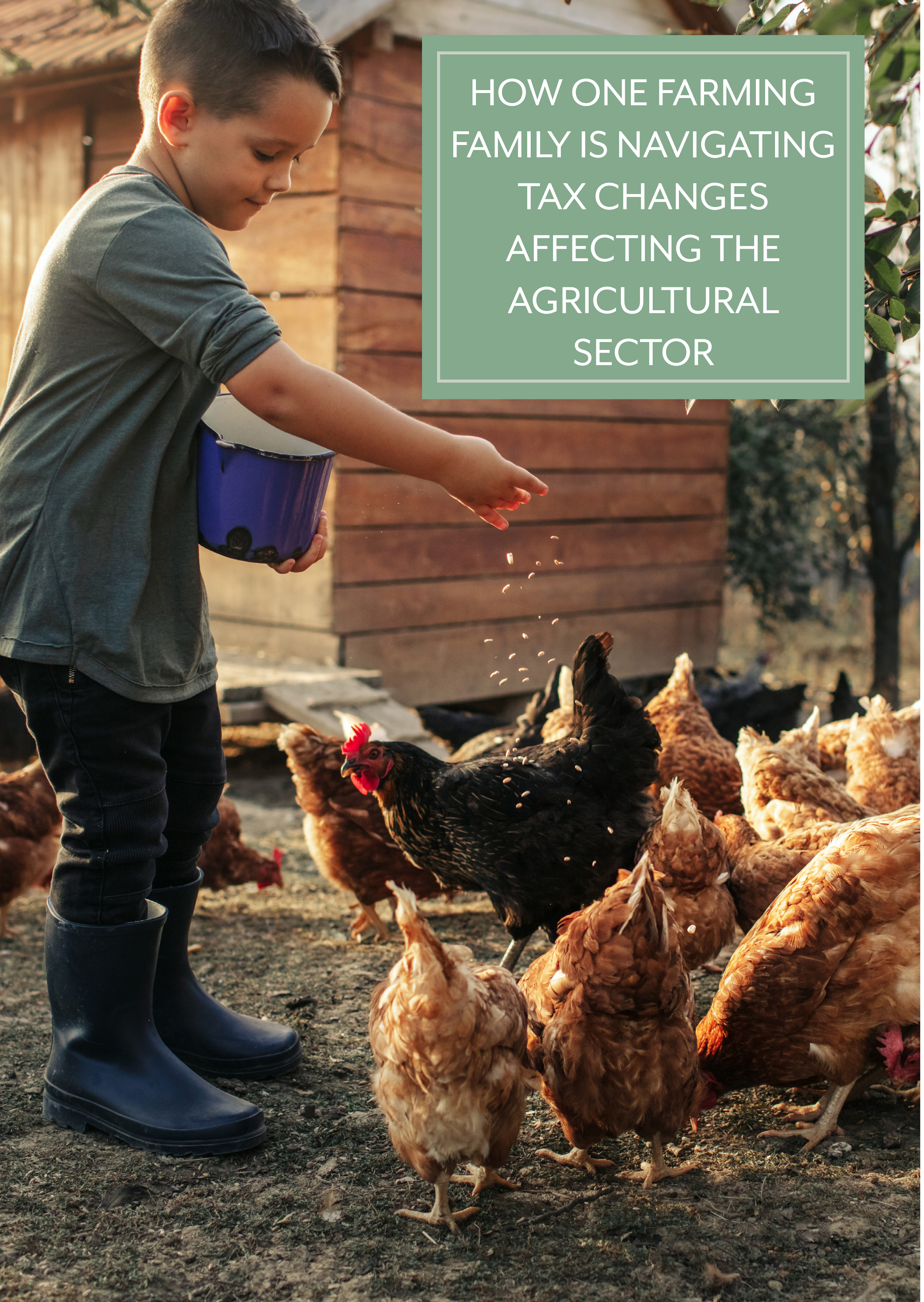
Non-dom case study

The Atlantis family moved to the UK 10 years ago as their twins started attending English schools. The twins are now 17, in their last year of further education and are applying to UK universities. Their parents are enjoying life in England and will remain if the children go to UK universities, but will ultimately leave, most likely when the children are 21. Under the old rules which applied before 6 April 2025, they made use of the remittance basis of taxation (so only paid UK tax on offshore income and gains if they were remitted to the UK) and were not deemed domiciled in the UK for IHT as they had not been resident for more than 15 out of 20 tax years. They had always planned to leave before they reached that threshold.

Given the changes and their plans, they take advice and decide to:

- ✓ Take advantage of the temporary repatriation facility over the next three years to bring gains and income into the UK at a reduced tax rate of 12% then 15% to fund their living for the next four years.
- ✓ Take out fixed-term life insurance for IHT, to cover a potential UK IHT liability if they were both to die whilst in the UK and before their IHT tail (i.e. the period they will be deemed within the scope of UK IHT after leaving) ends. On their current plans, this will be for a period of eight years to cover their next four years in the country and an IHT tail of four years (as they will have been resident for 14 years when they leave).
- ✓ Review and update their wills in relation to both their UK and overseas assets (as the law of their domicile will still apply for succession purposes generally) and put in place Lasting Powers of Attorney.

The most significant potential additional cost to the Atlantis family, resulting from the tax changes, is IHT. However, by putting insurance arrangements in place to cover this, they can manage the situation.



HOW ONE FARMING FAMILY IS NAVIGATING TAX CHANGES AFFECTING THE AGRICULTURAL SECTOR

Following Chancellor Rachel Reeves' Autumn Budget in October 2024, the UK's agricultural sector is facing new challenges resulting from revisions to Inheritance Tax (IHT) and Capital Gains Tax (CGT). The changes will impact the majority of farming families who, to date, have often been advised to retain assets until death, with little risk to the next generation of farmers.

I am a corporate solicitor who grew up on a family farm. We had sheep, a large egg farm and grew turf, which is slightly more unusual. The farm is traditional, in the sense that my grandparents still run the farm and work on it daily, and my father and aunt also work full time on the farm. As I think is typical with a lot of farming families, all the farm assets were originally in my grandparents' names, but we have now moved these into a private limited company, where they hold the majority of the shares.

Within 24 hours of the Autumn Budget, I was called into an emergency planning meeting with the family. We quickly established that, like a lot of other farming families, we needed to take some time to see how advisers were responding to these changes and to consider the advice we should be seeking. We were also hoping that the changes might be reversed or dampened down and we wanted to know if this was a likely prospect before incurring costs.

Many of us will have seen the farming community's protests against the changes, which have been ongoing since the Budget, based on genuine fears for livelihoods and food security. My family and I were concerned that these changes would capture nearly all genuine farming families and we thought the government might rethink their approach, given the threat to the UK farming industry.

We had hoped a transitional period would be implemented so that people in their 70s and 80s, who would have very little time to put the appropriate estate planning in place, would not be in the position of risking the livelihoods of the next generation of farmers due to the IHT burden that will be placed on them/the estate as a result of these changes.

WITHIN 24 HOURS OF THE AUTUMN BUDGET, I WAS CALLED INTO AN EMERGENCY PLANNING MEETING WITH THE FAMILY

We are now seven months on and have heard the Chancellor's spring statement. It looks unlikely that the government is going to make any material changes to their October announcements, despite calls for them to do so or at least delay implementation. We are focussing on what we can do with the new succession planning landscape that farming families are working within.

Under previous rules, Agricultural Relief (AR) and Business Relief (BR) could, if properly structured, eliminate IHT on farming businesses. However, from April 2026, the first £1 million of combined agricultural and business assets will attract 100% relief, with the balance qualifying for only 50%. For many farms, it's realistic to assume that when including the farmhouse, it's likely that the value of a farm estate will significantly exceed £1 million, which effectively doubles the tax liability if the entire estate passes on a second death.

Another key measure is the rise in CGT for farmland and businesses. CGT rates have moved from 10% to 18% for basic-rate taxpayers and 20% to 24% for higher-rate taxpayers on relevant disposals since 30 October 2024. The Autumn Budget also announced a multistage increase in Business Asset Disposal Relief, currently set at 10%, to 14% by April 2025 and to 18% by April 2026.

Consequently, farmers who have planned sales or restructures to support succession or retirement may find themselves liable for a higher tax bill than previously anticipated, albeit there are options to holdover (defer) gains on a restructuring. These changes will require a thorough review of any sale or succession planning arrangements and, in some cases, reconsideration of the timing of such transactions.

My family has undertaken an immediate review of wills and the current company structure we have in place. We are now considering the following options going forward:

1. Splitting ownership between spouses and ensuring that more senior members of the family hold portions of farmland to optimise use of personal IHT allowances and relief thresholds (although this needs to be carefully balanced with the fact that my grandparents want to maintain majority control)
2. Targeted gifting of some assets during lifetimes
3. Utilising the annual tax-free gifting allowance as much as possible
4. Investigating whether any gifts can be made from surplus income (although this is proving to be very complex)
5. If the farming assets are held within a private limited company (which they are in my family's case), we are considering capping the value of my grandparents' shares (another option would be changing the legal structure of ownership for the farmhouse to ensure that this sits outside of the farming estate)
6. Whether we could obtain a form of life insurance which could offset any unforeseen inheritance charge.

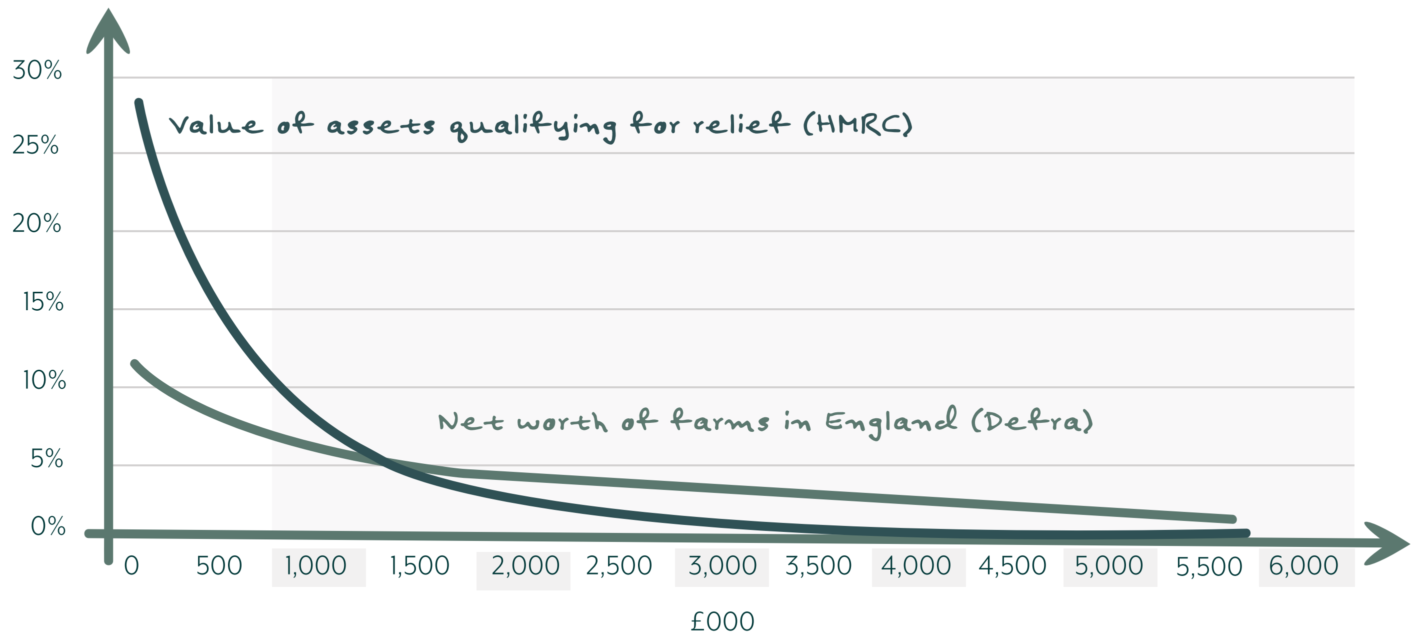
It's clear that a great deal of planning will need to be undertaken by farming families, who are inherently asset-rich, and usually cash-poor. Many families will have to look at selling assets (likely land) to deal with the increase in IHT and CGT if they don't undertake careful planning. The government has confirmed that the (interest-free) instalment option remains available to ease the burden, but there is no guarantee this will avoid the sale of farmland in many cases.

It goes without saying that this, now crucial, succession planning also comes at a material cost to farms, as this is something that farming families will need to fund, likely when they have not been anticipating this. Although the chancellor has insisted these reforms will be 'simpler and fairer', I have to admit that it's hard for us as a family to see a way forward where these changes won't undermine crucial agricultural operations, UK food security and longer-term investment.

Farmers will remain vigilant as further technical details emerge. It would seem wise to consider instructing the necessary legal and tax advisors to advise on the new rules, to evaluate ownership models and to consider appropriate succession planning before any of the changes come into force.

Lara Bethell
Senior Associate, Corporate

Fitted distributions of AR reliefs claimed and the net worth of farms



Source: Analysis using data and information from HMRC, Defra, Advani et al (2024) and the NFU.

FAMILY BUSINESSES - INHERITANCE TAX AND 'FREEZING' THE VALUE OF YOUR SHARES

The changes to Inheritance Tax (IHT) Business Relief (BR) taking effect from 6 April 2026 will focus the minds of many family business owners and force a review of their tax and succession plans.

One option to assist owners in limiting their exposure to IHT is the implementation of a 'freezer' and 'growth' share scheme. Whilst such a scheme is not a new invention, we foresee a greater use of this strategy when navigating the new tax landscape.

Our summary of the upcoming changes to BR (and other budget announcements) can be found in **Issue 3**.

> BEFORE ANY SUCH SHARE REORGANISATION, A PROFESSIONAL VALUATION OF THE COMPANY IS ESSENTIAL

What are 'freezer' and 'growth' shares?

Freezer shares refer to a process whereby the value of the shares is 'frozen' and a new class is created – the growth shares – which benefit from the future capital growth of the business.

Typically, the existing shareholders retain the freezer shares, which entitle them to a preferred amount on their exit from the business or on winding up. The growth shares are allotted or gifted to younger members of the family or family trusts and will gain value once the company reaches an agreed threshold, known as the hurdle rate. The growth shares can be created with or without voting or dividend rights, depending on the preference of the existing shareholders. This is all achieved by amendments to the company's Articles of Association.

Who may this be suitable for?

For shareholders where any one or more of the following may be relevant, freezer and growth shares are worth consideration:

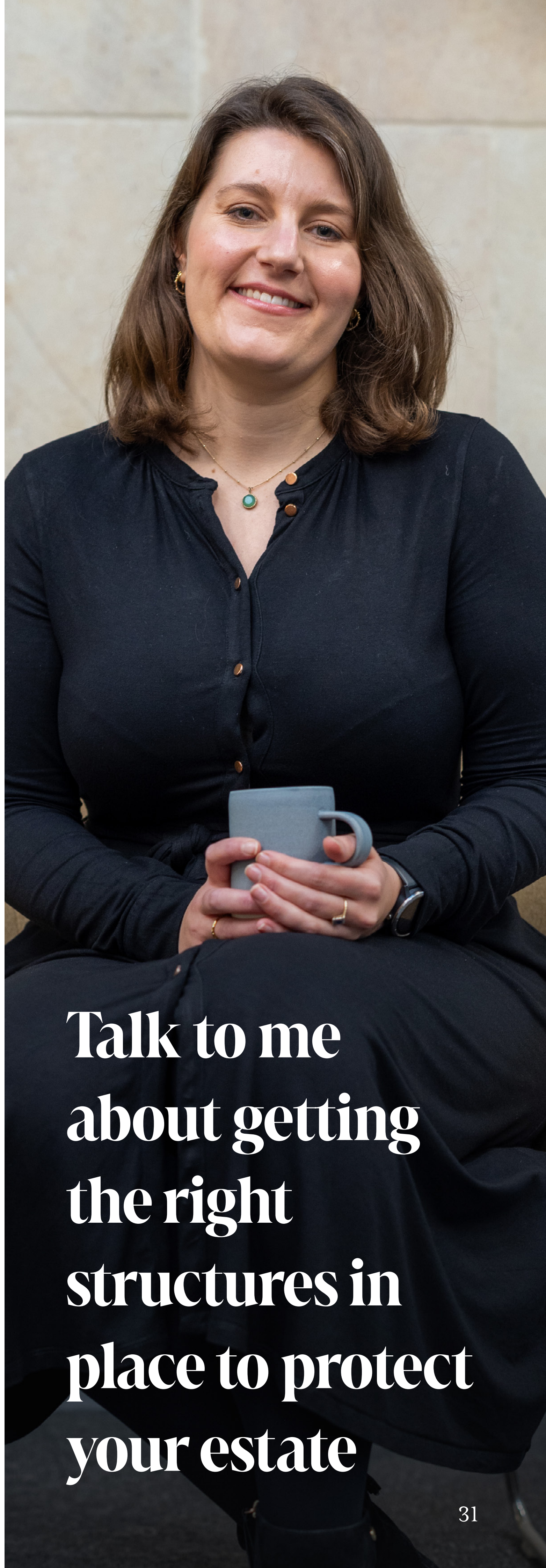
- If their shares are not expected to fully qualify for BR i.e. investment companies or trading companies with a value in excess of £1 million, this may be a useful strategy to cap the value of their interests and therefore their exposure to IHT. The growth in the value of the company will be outside of the shareholder's estate, which could represent a significant IHT saving, particularly if the company has a strong trajectory for growth
- If retaining access to capital and a source of income is necessary and other IHT planning strategies, such as outright gifts of their current share capital, are not affordable, retaining the freezer shares allows the shareholder to continue to receive dividends or the proceeds of a share sale up to the hurdle rate
- If continued involvement and retaining control is a priority for the current business owner, this can easily be facilitated by such a reorganisation. As above, careful consideration is given to the voting rights attached to the growth shares and/or by the use of family trusts
- If a shareholder wishes to encourage the next generation of the family's involvement in the business and incentivise them, allocating growth shares can assist and reward the key players as they grow the business.

Tax considerations

Before any such share reorganisation, a professional valuation of the company is essential and will assist in determining the hurdle rate and, in turn, the tax implications.

Clearly, IHT may be a motivating factor for such a scheme. Whilst there is an obvious IHT advantage in capping the value of the shares, a secondary benefit can be achieved if the shareholder of the freezer shares draws out value by a dividend or share sale. The value of their retained shares will decrease, as will their IHT liability.

It must be noted that any allocation of growth shares is a disposal of the right to participate in the future growth of the company. Careful consideration



90% of all private firms in the UK are family businesses

of the value of such an interest is required to determine the IHT and Capital Gains Tax (CGT) consequences. On day one, the growth shares are likely to have a low or negligible value, representing the 'hope' value. Over time, and as the business grows, the value will increase.

If the growth shares are gifted immediately after issue, depending on the recipients of the shares (either an individual or a trust) and the structure of the company, a Potentially Exempt Transfer or Chargeable Lifetime Transfer will take place. In short, the transfer should be structured in such a way to avoid an immediate charge to IHT. The existing shareholders will need to survive seven years from the date of the gift for the value of the growth shares to fall out of account when valuing their estates for IHT purposes.

For CGT purposes, if the growth shares aren't subscribed for at market value, a CGT charge may be triggered. However, holdover relief may be available if the business is a qualifying trading business or if the shares are transferred to a family trust. If holdover relief is available, this will assist in deferring any CGT charge until the recipient disposes of the shares.

There are also income tax consequences to consider, we recommend seeking professional advice ahead of making any decisions.

Source: Family Business UK

Freezer and growth shares: a practical example

Mr X owns all of the shares in a growing manufacturing company; there are 1,000 shares. The shares in the company have been valued as currently worth £2 million. The value of the company means that after 6 April 2026 and the introduction of the cap on BR, there will be an IHT liability following Mr X's death.

After taking advice, Mr X decides to implement a freezer and growth share scheme. He decides that 500 shares will be reclassified as freezer shares, and 500 shares will be reclassified as growth shares. The hurdle is set as £2 million in total – this is the present value of the company, which will accrue to Mr X.

Mr X make a gift of the growth shares

Mr X has two sensible adult children and decides to make a gift of 250 growth shares to each child. Mr X retains 500 freezer shares. To the extent there is a gain to defer, an election for Holdover Relief can be made so that the gift does not trigger a CGT charge.

If Mr X decides to sell the company during his lifetime, he will still have the benefit of the first £2 million of the sale proceeds; the remaining value will belong to the holders of the growth shares. The company can also pay dividends from its profits – this provides an income to Mr X as required during his lifetime.

Mr X passes away

Mr X passes away eight years after he made the gift of his shares. The value of all of the shares in the company is now £4 million. As Mr X owned only freezer shares, however, the value of his shares remains fixed at £2 million (assuming he has not benefitted from any dividend or share sale in the last eight years).

The remaining value of the company belongs to his children, as holders of the growth shares, and the £2 million increase in the company's value attributable to the growth shares is not brought into account when valuing Mr X's estate for IHT. In addition, as the gift was made more than seven years ago, the original value of the growth shares has also fallen out of account when valuing his estate.

Mr X's freezer shares will still be exposed to IHT, potentially incurring a charge of £200,000 ((£2,000,000-£1,000,000) @ 20%). However, an IHT saving of £400,000 has been made by ensuring the growth in value has accrued to his children.

One option for mitigating IHT

A freezer and growth share scheme is one of many options available to owners of family businesses who wish to mitigate IHT and plan for the succession of their businesses. Now is the time for business owners to review their IHT exposure and options to help manage the upcoming changes in tax legislation.

Katherine Hague
Head of Private Wealth

Laurence Evans
Partner, Corporate

From application to approval - Checklist when setting up a Charity in England and Wales

In 2023/24, the Charity Commission received 9,008 applications to register charities in England and Wales.

With only 54% of the 9,008 applications resulting in charity status being granted, it's important that the philanthropists, associations, companies and trusts applying for charity status get the fundamentals right. The factors to consider when setting up a charity include:

The public benefit requirement

The key starting point in applying for charity status is demonstrating that the proposed charity has charitable purposes which are for the public benefit. To prove this, the charity's purposes must contribute to any of the following:

- Relieving poverty
- Education
- Religion
- Health
- Saving lives
- Citizenship or community development
- The arts
- Amateur sport
- Human rights
- Religious or racial harmony
- The protection of the environment
- Animal welfare
- The efficiency of the armed forces, police, fire or ambulance services.

The benefit must be identifiable and evidenced, not based on personal views. The public aspect must benefit the public in general, or a sufficient section of the public (depending on the purpose of the charity).

Trustees

There should be at least three trustees who will have independent control and legal responsibility for the charity's management and administration.

Trustees must be over the age of 16 and will be collectively responsible for managing the charity. A variety of skills should be present among the board of trustees to enable a broad set of expertise when applying the collaborative approach to trustee decisions.

Only 54% of the 9,008 applications in 2023/2024 were successful

Source: Gov.uk

Charity structure

As 'charity status' is not an entity in itself, there will need to be an entity to attach the charity status to. There are various types of structures that a charity can take, the most common being:

Unincorporated organisation or trust – run by individuals who are bound together by common rules, a constitution or trust, which is registered with the Charity Commission once charity status is granted. This structure suits small charities as it typically involves less administration than incorporated structures. However, it's important to note that trustees of an unincorporated charity could be personally liable for the charity's debts and liabilities and will need to enter into agreements in their personal names.

Charitable Incorporated Organisation (CIO) - this is an incorporated structure registered solely with the Charity Commission. The CIO structure is becoming the most common incorporated charity structure as it offers limited liability for its trustees and the ability to enter into agreements in the name of the charity (CIO). Registering a CIO requires a robust constitution and application to the Charity Commission.

Charitable company – a Company Limited by Guarantee (CLG), registered with Companies House, which is granted charity status either at the time of incorporation or upon the CLG being able to meet the public benefit requirement. As with CIOs, a charitable company offers limited liability for its trustees (who will also be directors of the company) and the ability to enter into agreements in the name of the charity. A charitable company will be regulated by both Companies House and the Charity Commission.

When considering whether to set up a charity in England and Wales, there are a number of factors which should be considered when assessing the above. These include the risk profile of the charity, the responsibilities and duties to be taken by the trustees, existing or likely applicable regulatory requirements applied to the charity, and the financial position.

Professional tax and accounting advice should always be sought before applying to register as a charity.

Joseph Hobbins
Solicitor, Charities and Not-for-Profit

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