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A brighter way

Helpful pointers on your client's BR-qualifying investment

Now your client has held their investment for two years or more, it is expected to qualify for Business Relief (BR). There are a number of reasons why now could be the right time to offer them further assistance with their intergenerational planning. For example:

It could be in your client's best interests to revisit their current will to ensure it makes best use of available tax reliefs.

Their estate might have increased in value, so they may now have a need to consider further estate planning.

Their estate might be too large to benefit fully from the residence nil-rate band and they might want to rearrange their affairs so as to benefit from the allowance.

If they no longer need access to the investment, they might be interested in settling their Business Relief (BR)-qualifying shares into trust.

We've outlined these scenarios in this document.

Rules in relation to how will drafting can impact the amount of inheritance tax due on an estate can be complicated. We recommend that investors seek specialist advice to ensure that their will is drafted to take best advantage of inheritance tax reliefs available to them, such as the nil-rate band, exempt gifts and BR.

For more information about how BR assets are treated if left as part of the residue of an estate, take a look at the 'Inheritance Tax Manual IHTM26101' on HMRC's website, speak to your local Octopus Business Development Manager, or see our will drafting insight at octopusinvestments.com.

Revisiting your client's will to make best use of tax reliefs

Your client's will is, of course, intended to carry out their wishes for their estate when they die. It can also be used to pass on as much of their wealth as possible to whomever they choose.

This could be a good time to review their existing will arrangements to make best use of the tax reliefs that are now available.

If your client is married or in a civil partnership, they can leave any assets to their surviving partner free of inheritance tax. As such, it might be worth your client revisiting whom this investment is left to, if they are planning to leave assets to other beneficiaries.

The following planning examples could be useful if your client is currently intending to leave their BR-qualifying investment to their spouse, or as residue of their estate in their will.

Leaving the BR-qualifying investment to children

For example, once your client has held the investment for two years, amending their will to leave it to beneficiaries other than their spouse could make better use of the fact it qualifies for 100% relief from inheritance tax.

If current arrangements provide for your client's spouse to inherit their BR-qualifying investment, with the spouse intending to make lifetime gifts to the children later on, it might make sense for your client to make provisions to leave this investment to the children on the first death instead.

This could avoid the surviving spouse making a potentially exempt transfer (PET) in the future, and would also help to preserve the nil-rate band.

In instances where your client's will makes provision for exempt gifts (such as to their spouse), and where a BR-qualifying investment forms part of the residue of the estate to be split between beneficiaries such as their children, some of the relief available in respect of their investment could be effectively 'wasted'.

This is because the relief may be allocated across both the chargeable and exempt beneficiaries. In such a situation, it could be beneficial for your client to leave their BR-qualifying investment as a specific gift in their will.

Clients who might benefit from updating their will

- Anyone currently planning to leave their BR-qualifying investment to their spouse.
- A couple who might want to make lifetime gifts to their children.
- Anyone who is married or in a civil partnership, and plans to leave this investment as part of the residue of their estate.
- Anyone who hasn't revisited their will since the introduction of the residence nil-rate band.

Helping your client to plan for the long term

Settling assets into a discretionary trust can ensure that your client's wealth is passed from one generation to the next with a degree of control as to how it is distributed.

It can also help to protect the client's family wealth against future unexpected events, such as divorce settlements, and can enable them to leave assets for the benefit of future generations over the long term.

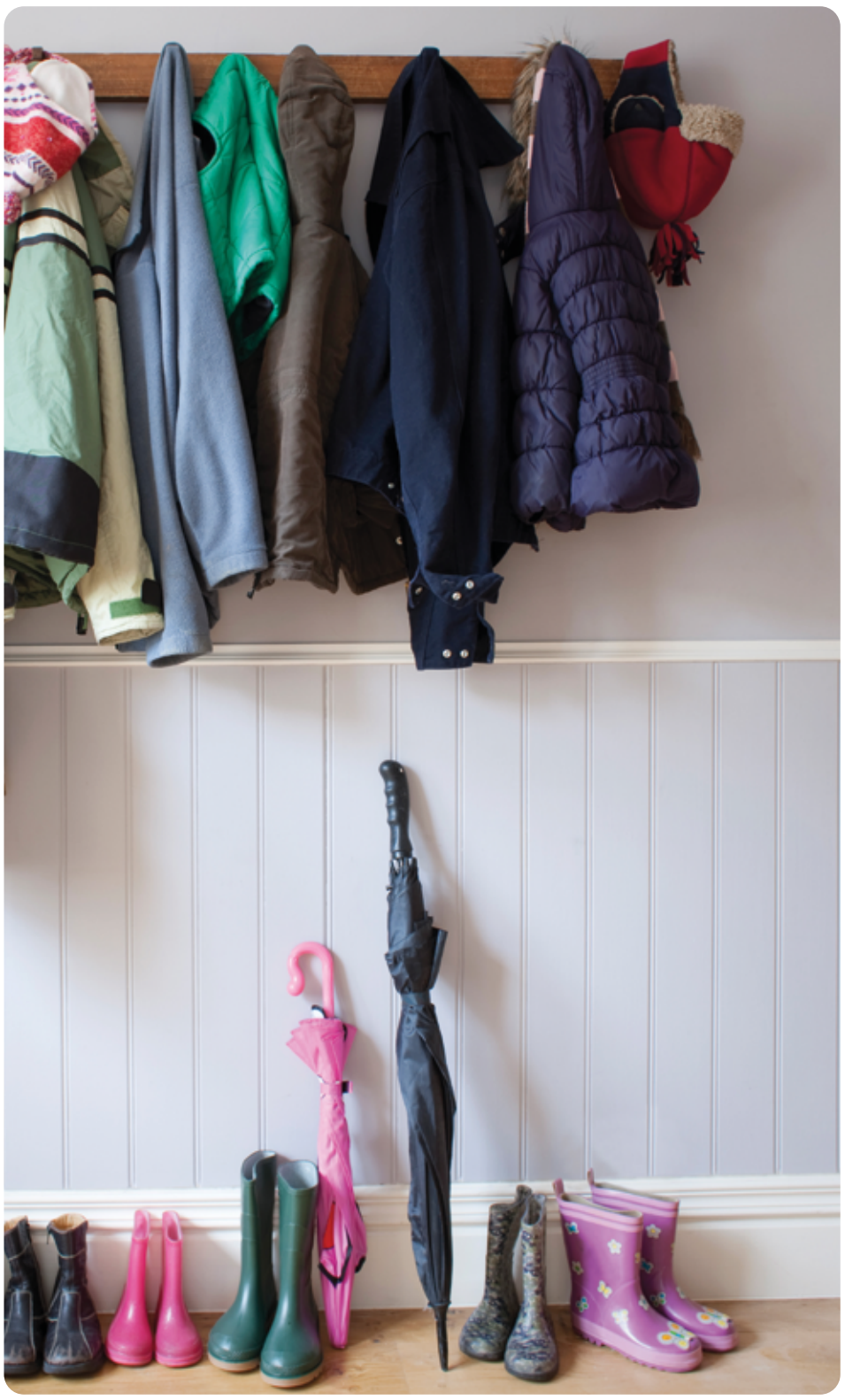
Clients who might want to settle assets into trust

- Anyone who is planning to leave assets to young grandchildren.
- Anyone concerned about family wealth being eroded through divorce.
- Anyone who wants to maintain control over how the assets left to their beneficiaries are distributed.
- Anyone who no longer needs access to their investment for the rest of their lifetime.
- Anyone who wants to plan for their family's wealth over the long term.

Settling BR-qualifying shares into trust

Settling their BR-qualifying shares into a discretionary trust could be an attractive way for your client to pass their investment down to the next generation.

Once your client has held their shares for two years, settling them into discretionary trust during their lifetime should mean that they face no chargeable lifetime transfer, no matter the size of the settlement. Providing the trust continues to hold the qualifying investments, there will be no inheritance tax to pay, even if the client dies within seven years.



Their nil-rate band would be available to offset against the rest of their estate when they die.

If the intention is for the trust to exist for a long time, there are other benefits to consider:

- If the trust continues to hold the BR-qualifying shares at year ten, there should be no periodic charge to pay.
- When it comes to charges upon exit, the rate applicable to capital distributions is based on the last periodic charge. If the trust remains 100% BR-qualifying at that time, no exit charges will be payable if capital is distributed in the following ten years. However, there will be fees for entering and exiting the BR investment.

It is worth bearing in mind that these benefits would be lost if the BR-qualifying investment is later sold by the trustees.

Importantly, a charge to inheritance tax can arise if the trust sells its BR-qualifying shares, and the settlor dies within seven years of making the settlement. This could undo the inheritance tax benefit that the settlor gained by investing in BR-qualifying shares in the first place.

Maximising your client's residence nil-rate band

The residence nil-rate band, introduced in April 2017, could reduce the inheritance tax bill due on your client's estate, but only if they are planning to leave their home to their children or grandchildren.

If your client's estate is worth more than £2 million when they die, the amount of residence nil-rate band available will be reduced at a rate of £1 for every £2 by which the estate exceeds £2 million.

However, homeowners with a really large estate could lose the benefit of the new allowance altogether.

Planning for the residence nil-rate band

When it comes to assessing eligibility for the residence nil-rate band, your client's BR-qualifying investment will form part of the calculation of the overall estate, even though there's no inheritance tax to pay on the investment itself.

And if your client's estate is valued at more than £2 million when they die, the residence nil-rate band cannot be claimed in full.

What could your client do?

One of the advantages of investing in BR-qualifying shares, is that your client retains access to their investment. It can be sold at any point (subject to liquidity) for care home fees, for example. But once access is no longer as important, they could choose to settle their BR-qualifying shares into a discretionary trust, or give them to a beneficiary.

For residence nil-rate band valuation purposes, assets that have been settled into trust (from which your client cannot benefit) or given away at any time before your client dies, will not be included as part of their estate. If this reduces the estate's value to below the £2 million threshold, the estate should be entitled to claim the residence nil-rate band in full – leading to an inheritance tax saving of up to £140,000 per couple, on top of BR.

Clients who might want to plan for the residence nil-rate band

- **Anyone with an estate worth more than £2 million (including this investment), and who plans to leave their home to their children or grandchildren.**
- **Anyone whose estate may increase to more than £2 million.**
- **Anyone who no longer needs total access to all of their wealth.**

So long as the BR-qualifying investment is held by the trust or beneficiary for at least seven years, or until your client dies, no inheritance tax should be due.

Is now a good time for your client to top-up?

If now is the right time for your client to add to their BR-qualifying investment, please get in touch with your local Octopus Business Development Manager. Contact details can be found below. They will be able to provide with you third party suitability and due diligence reports. Details of the underlying investments in the Octopus Inheritance Tax Service can be found on our website.

Key risks

Please remember that the value of a BR-qualifying investment, and any income from it, can fall as well as rise. Investors may not get back the full amount they invest.

You should keep in mind that tax rules could change in the future, and tax treatment depends on your client's personal circumstances. Tax relief depends on portfolio companies maintaining their qualifying status.

The shares of the AIM-listed and unquoted companies we invest in could fall or rise in value more than shares listed on the main market of the London Stock Exchange. They may also be harder to sell.

Next steps

If your client is interested in topping up their investment with us, or if you have any questions, please call your local Octopus Business Development Manager on 0800 316 2067. We're always happy to hear from you.

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Important information

BR-qualifying investments are not suitable for everyone. Any recommendation should be based on a holistic review of your client's financial situation, objectives and needs. We do not offer investment or tax advice. Issued by Octopus Investments Limited, which is authorised and regulated by the Financial Conduct Authority. Registered office: 33 Holborn, London EC1N 2HT. Registered in England and Wales No. 03942880. We record telephone calls. Issued: June 2023 CAM013073

Clients thinking of undertaking lifetime estate planning should consider the impact of other taxes such as capital gains tax and income tax, and should take professional advice.

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