

Planning your family's inheritance using Business Relief



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SYNOPSIS

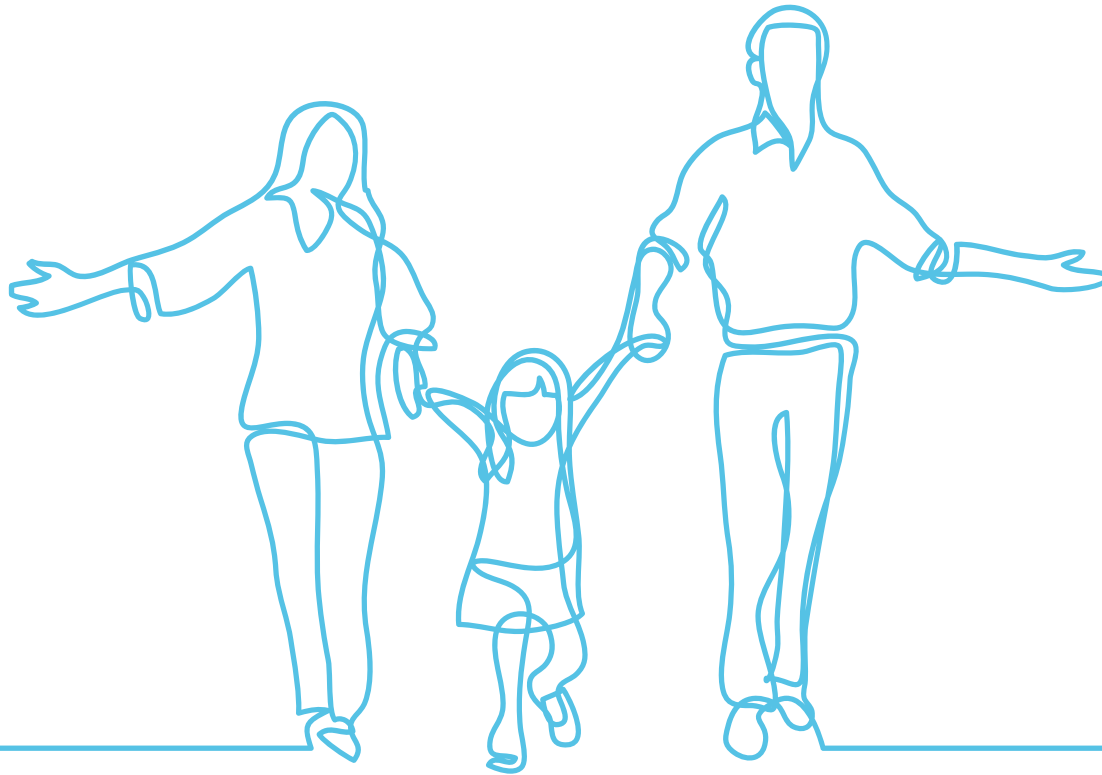
This session will cover the impact of the abolition of the pension lifetime allowance on Business Relief, Replacement Property Relief as a Consumer Duty tool and appropriateness indicators for an Asset Backed BR solution.

LEARNING OBJECTIVES

By the end of this session, participants will have a better understanding of:

- ▶ Whether the removal of the pension lifetime allowance will affect Business Relief investment
- ▶ How Replacement Relief can assist you with your responsibilities under the Consumer Duty
- ▶ The types of investor for whom an Asset Backed BR solution might be an appropriate investment





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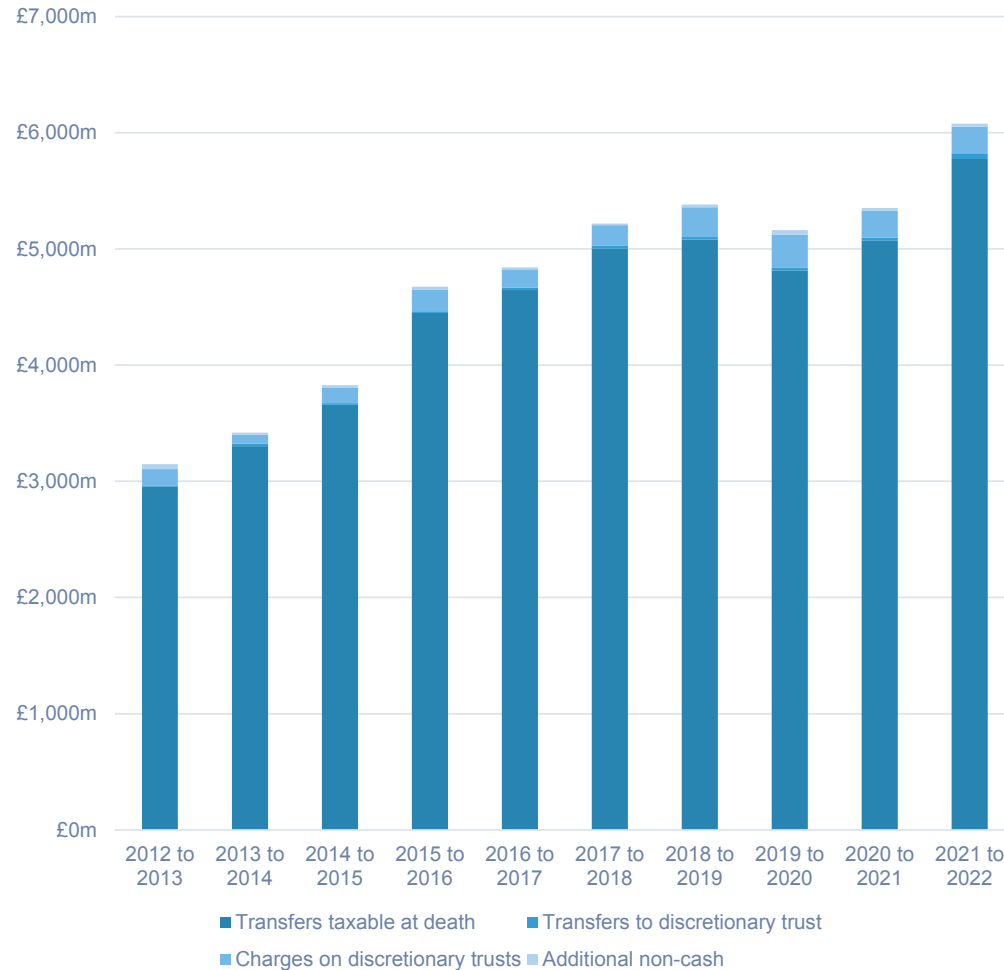
Planning your family's inheritance using
Business Relief

Intended learning objectives

By the end of the session, you should understand:

1. Whether the removal of the pension lifetime allowance will affect Business Relief investment
2. How Replacement Relief can assist you with your responsibilities under the Consumer Duty
3. The types of investor for whom an Asset Backed BR solution might be an appropriate investment

12.1 Inheritance Tax: analysis of receipts



'Transfers taxable at death' shows cash receipts for tax due when assets are transferred at death. It includes tax levied in respect of lifetime transfers made within 7 years before death.

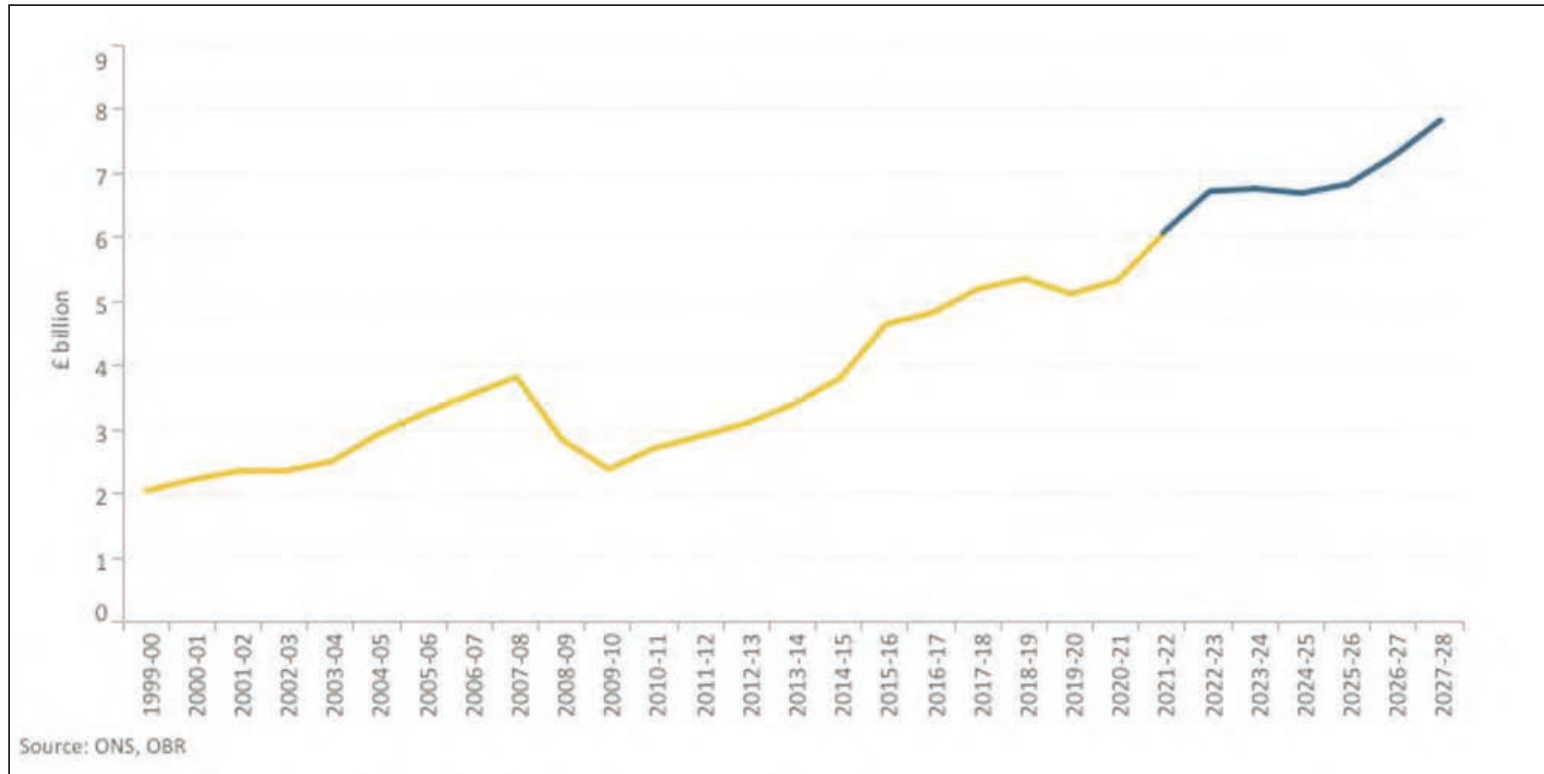
'Transfers to discretionary trusts' shows cash receipts for tax due at the time of the transfer of assets during lifetime. These arise almost entirely on gifts to discretionary and other relevant property trusts, but occasionally include other immediately chargeable lifetime transfers.

'Charges on discretionary trusts' shows cash receipts for ten-yearly and proportionate charges on discretionary and other relevant property trusts.

'Additional non-cash' shows the amount of inheritance tax liability satisfied through transfers under the Acceptance in Lieu scheme.

Source: gov.uk Inheritance Tax statistics (July 22)

Inheritance Tax: forecast of future receipts



IHT receipts for 2027/28 expected to be £7.8bn
Source: Office of Budget Responsibility (January 23)

IHT receipts for April 22 to February 23 stand at £6.4bn
Source: HMRC (March 23)

Business Relief ('BR')

You can get **100%** Business Relief

- On a business or interest in a business
- On shares in an unlisted company

You can get **50%** Business Relief

- On shares controlling more than 50% of the voting rights in a listed company
- On land, buildings or machinery owned by the deceased and used in a business they were a partner in or controlled
- On land, buildings or machinery used in the business and held in a trust that it has the right to benefit from

More information: www.gov.uk/business-relief-inheritance-tax/what-qualifies-for-business-relief

Business Relief

You can only get Business Relief if the deceased:

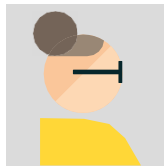
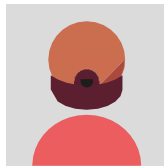
- owned the business or asset for at least 2 years before they died; and
- owned it at the date of their death.

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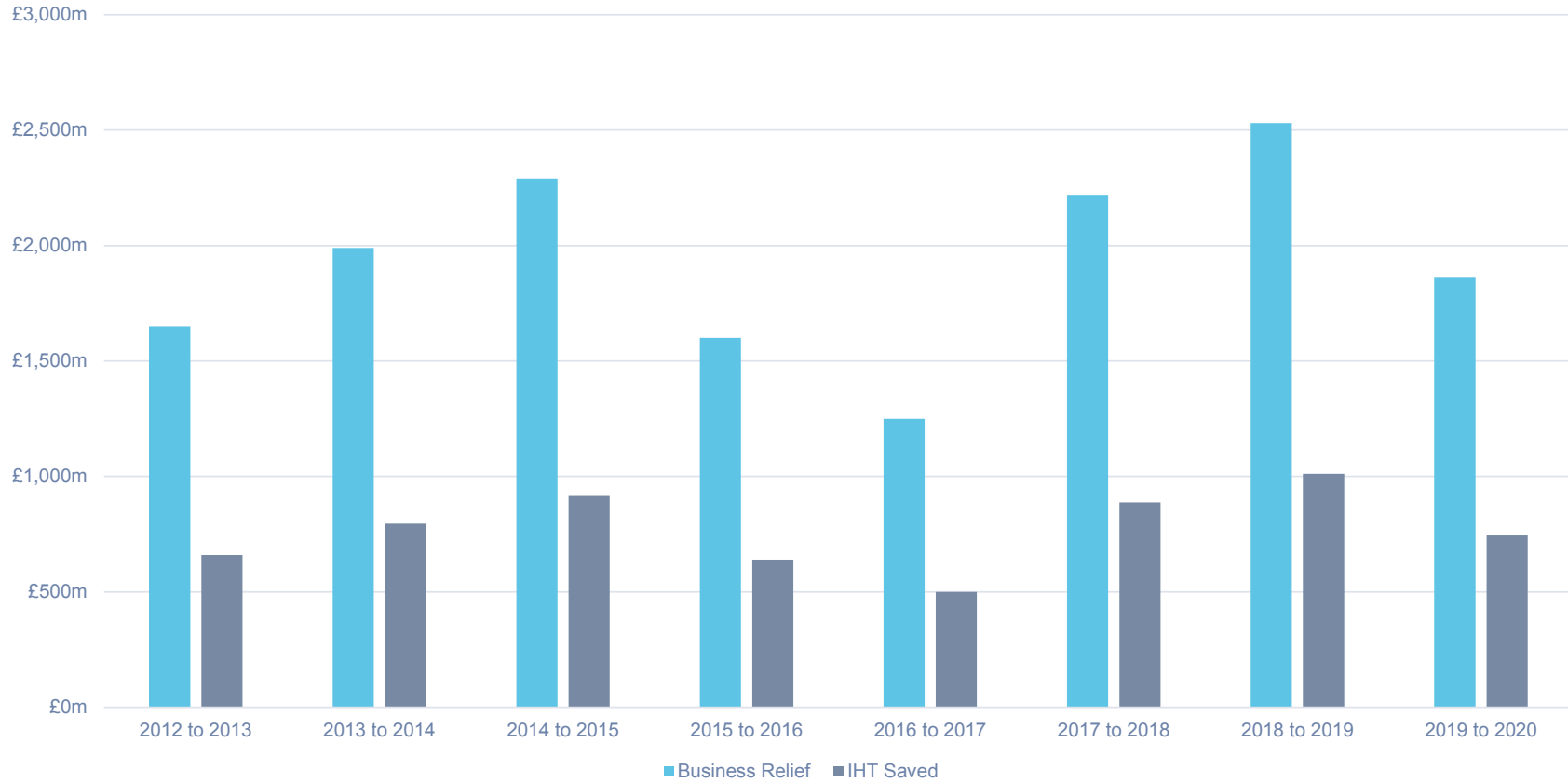
- **Recent inheritance:** £50K
- **Home:** £1.2m (no mortgage)
- **ISAs:** £500k
- **Savings & Investments:** £650k
- **Buy to let property:** £300k

THEO JAR AND INGRID



- **Home:** £1.5 million (no mortgage)
- **ISAs:** £150,000
- **Savings & Investments:** £3 million (incl. £1.5 million pension)
- **Business:** £50 million

The value of Business Relief



Source: gov.uk Inheritance Tax statistics (July 2022)

Question

The government announced that from 6 April 2023 the lifetime pension allowance charge would be removed.

How does this affect Business Relief investments?

Pensions schemes newsletter 148 (March 2023)

The following is a summary of all the announcements in the Budget on 15 March 2023 in connection with tax relieved pension savings

1.1 Lifetime allowance (LTA)

The government announced that from 6 April 2023 the lifetime allowance charge would be removed. The lifetime allowance will be fully abolished from the 2024 to 2025 tax year, through a future Finance Bill.

The lifetime allowance framework therefore remains in place from 6 April 2023, and it is just the lifetime allowance charge that has been removed at this stage.

Pension commencement lump sum

As a result of the changes to the lifetime allowance, the maximum amount which a member can take as a pension commencement lump sum (PCLS) will be frozen at £268,275 (i.e. 25% of the *[previous]* standard lifetime allowance of £1,073,100).

Members with a protected right to a higher PCLS will continue to be able to access this right

Other lump sums

Where the following payments would currently be subject to an lifetime allowance charge at 55%, from 6 April 2023 they will be taxed at the recipient's marginal rate

1.2 Annual allowance (AA)

From 6 April 2023 the annual allowance for tax relief on pension savings in a registered pension scheme will increase from £40,000 to £60,000.

The adjusted income limit will increase from £240,000 to £260,000. This means if a member's adjusted income is over £260,000, their annual allowance in the tax year may be reduced. For every £2 their adjusted income goes over £260,000, their annual allowance for the current tax year will reduce by £1. The minimum reduced annual allowance a member can have from 2023 to 2024 onwards is £10,000. This has been increased from £4,000.

For the tax year 2023 to 2024 onwards, the money purchase annual allowance limit will also increase from £4,000 to £10,000.

Source: <https://www.gov.uk/government/publications/pension-schemes-newsletter-148-march-2023>

IHTM25311 - Business relief: Replacement property

The following is taken from HMRC's Inheritance Tax Manual

“The replacement property will qualify for business relief if

- it replaced other business property
- the original and replacement property were each owned for periods totalling two out of the five years prior to the date of the transfer
- each item of property was relevant business property (apart from the ownership test) at the time of replacement and the date of transfer

“We take ‘replacement’ to mean there has to be some tangible connection or link between the pre-existing property and the later property.”

“For example, if an individual sells a qualifying business interest in A and buys another business interest in B, he or she would be said to have replaced A with B.

“If, however, s/he spent the proceeds on other things, and later borrows money to buy the interest in B, we would not regard that as a replacement.

“Neither would we regard S.107(1) as applying if the individual gave away the interest in A for no consideration, and later acquired the interest in B from other funds.”

Source: <https://www.gov.uk/hmrc-internal-manuals/inheritance-tax-manual/ihtm25311>

Replacement Relief

Replacement relief extends Business Relief so that the estate can get BR if the deceased:

- owned qualifying assets for at least 2 years out of the last 5; and
- owned a qualifying asset at the date of their death

THEO JAR AND INGRID



- **Home:** £1.5 million (no mortgage)
- **ISAs:** £150,000
- **Savings & Investments:** £3 million (incl. £1.5 million pension)
- **Business:** £50 million

Where someone sells a business, be mindful that an EIS investment can utilise Business Relief, Replacement Relief and allows the deferral of the payment of CGT on any gain made.

Question

How does Replacement Relief assist you with your responsibilities under the Consumer Duty?

The Consumer Duty

The Consumer Duty comprises the following regulatory components:

Principle 12 for firms

A firm must act to deliver good outcomes for retail customers

Three cross cutting rules

Firms must:

- Act in good faith toward retail customers
- Avoid foreseeable harm to retail customers
- Enable and support retail customers to pursue their financial objectives

Four outcomes:

- **Products and services:** To ensure all products and services are fit for purpose, designed to meet the needs, characteristics and objectives of a target group of consumers and distributed appropriately.
- **Price and value:** To ensure that all consumers receive fair value and that there is a reasonable relationship between the price paid for a product/service and the overall benefit a consumer receives from it.
- **Consumer understanding:** To ensure firms' communications support and enable consumers to make informed decisions about financial products/services.
- **Consumer support:** To ensure firms provide a level of support that meets consumers' needs throughout their relationship with the firm.

What doesn't qualify for Business Relief

You can't claim Business Relief if the company:

- mainly deals with securities, stocks or shares, land or buildings, or in making or holding investments is a not-for-profit organisation
- is being sold, unless the sale is to a company that will carry on the business and the estate will be paid mainly in shares of that company
- is being wound up, unless this is part of a process to allow the business of the company to carry on

You can't claim Business Relief On an asset if it:

- also qualifies for Agricultural Relief
- wasn't used mainly for business in the 2 years before it was either passed on as a gift or as part of the will
- isn't needed for future use in the business
- if part of a non-qualifying asset is used in the business, that part might qualify for BR (e.g. if you use one room in a building as a shop and the other rooms are used as your home, the shop will qualify for BR but the rooms won't)

There are also some grey areas that are probably best avoided for now (e.g. holiday lets and anything that applies a similar structure).

For further information, see COX VS HMRC [2020] TC07919 (covered in IP's 3rd edition of their BR Guide which is available from their website)

More information: www.gov.uk/business-relief-inheritance-tax/what-qualifies-for-business-relief

A trading company

One of the criteria for BR qualification is that the company in which you hold shares must be trading

According to the ITA 2007 s.989 and CTA 2010 s.1119, “Trade includes any venture in the nature of trade”.

A court decides using “Badges of Trade”

- Is there a profit seeking motive?
- How many transactions?
- What is the nature of the asset?
- Has there been any supplementary work undertaken on the asset?
- How long has the asset been owned?
- How was the asset acquired?
- How was the asset financed?
- Is there a non-trading reason for sale?

No one “badge” is conclusive evidence of trade

Too little trading can result in a proportion of your interest in the business being deemed an “excepted asset”, with that proportion not qualifying for Business Relief. In extreme cases, the entire interest might be deemed an excepted asset.

Ageing population



Longer life means more care costs and retirement expenses - need for flexibility / access to assets with estate planning.



BR is often the only estate planning option where a lasting Power of Attorney (PoA) is in place.

* Source: Intelligent Partnership BR reports

Two main types of BR investment in the market

AIM Portfolios

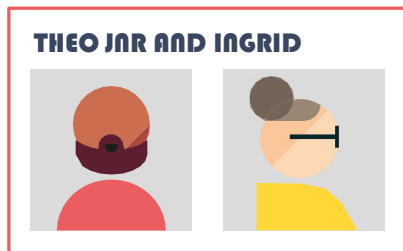
- Considered unlisted for BR purposes
- Potential for good returns
- Volatility
- Should be liquid

Asset Backed

- e.g. lending, leasing, solar, renewables
- Aimed more at capital preservation
- NAV per share not a market price
- Check how liquidity is achieved

Both should be able to give you access to your capital if your circumstances change

Asset backed BR investment

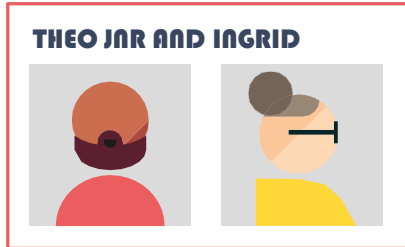


“Ingrid no longer works in the family business as she found the stress too difficult. While she is physically fit, she can be easily overwhelmed by financial details.”

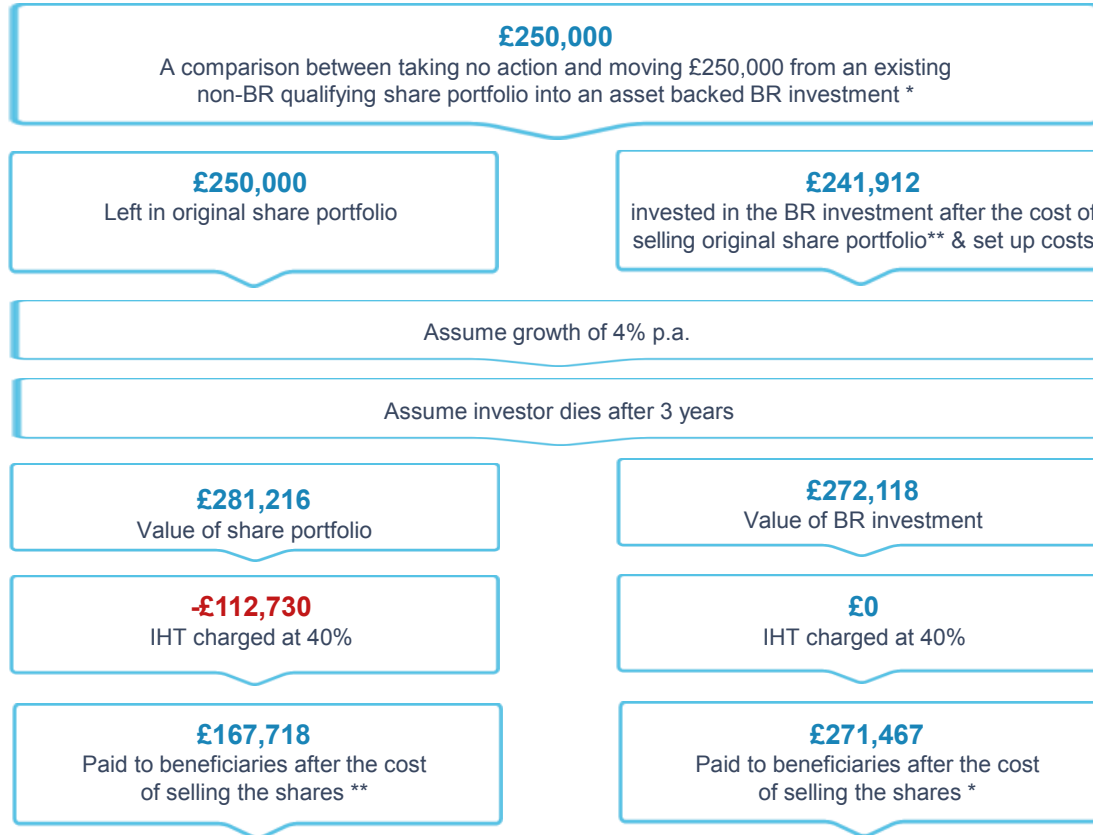
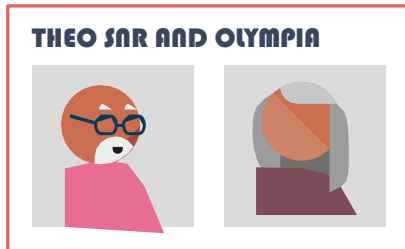
Asset Backed

- Aimed more at capital preservation
- NAV per share not a market price
- Check how liquidity is achieved
- Should offer access to capital

Transferring some funds into an asset backed BR investment



OR



* The Seneca IHT Service charging structure and target returns have been used for illustrative purposes.
** Assumed at 0.6%

Assume and target returns are not guaranteed. You may lose some or all of the money you invest.

Question

Think of three of your clients:

- Who are over the age of 70;
- Whose estates will be subject to Inheritance Tax;
- Who would wish to preserve the value of their capital (as best they can); and
- Who want to maintain access to their capital

Intended learning objectives

Hopefully, you should now understand:

1. Whether the removal of the pension lifetime allowance will affect Business Relief investment
2. How Replacement Relief can assist you with your responsibilities under the Consumer Duty
3. The types of investor for whom an Asset Backed BR solution might be an appropriate investment

Important information and key risks

This presentation has been published by Seneca Partners Ltd (“Seneca” or “we”), the Manager of the Seneca IHT Service (“the Service”). It is not a financial promotion. You should base any decision to invest solely on the contents of the Information Memorandum and Terms and Conditions of the fund or service selected. We cannot offer you with financial, taxation or legal advice and we therefore recommend that you seek advice from your financial adviser before making an investment.

You may lose money: The Service invests in companies whose strategy is to preserve capital by taking security in support of the loans they make. Despite this, it is possible that those loans may not be repaid in full or at all, resulting in losses that affect the value of your investment. When your shares are sold, the Net Asset Value of the investee companies may be lower than it was at the time you invested. Alternatively, the price achieved may not represent the full Net Asset Value of those shares in the investee companies.

Income and growth are not guaranteed: The Service targets a return of 4% pa. However, this is not guaranteed and it is possible that no return is paid and for your investment to fall in value. Past performance should not be taken as an indication of what the performance might be in the future. us to pay an annual advice fee that exceeds the dividend payable at the time the fee is If you have selected to receive income and no dividend is paid in a quarter or the dividend paid is less than the target income, the shortfall will not be made up in any future dividend payments. In addition, where you have instructed due, the shortfall will be carried over to the next quarter.

It may take longer to withdraw your money: Your investment will be used to buy shares in one or more unquoted companies. There is no market in which these shares can be traded and therefore they can be more difficult to sell. Withdrawal requests are facilitated by the disposal of shares held and are therefore conditional on either someone being willing to buy the shares or cash being available in the relevant investee companies to redeem them.

Whilst we will make every effort to fulfil all withdrawal requests once the three month notice period has elapsed, there may be a delay in meeting such requests if we have been unable to dispose of your shares (for example, where we have received withdrawal requests from a number of investors at the same time).

Changes to tax rules and legislation: The Service relies on the current legislation and interpretation relating to Business Property and HMRC practice. These could change in the future, affecting the potential tax benefits of your investment. The value of and qualification for tax reliefs depend on your personal circumstances.

For more information:

Please contact our Client Team
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