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## INHERITANCE TAX RELIEF FOR LOSSES ON SALE OF ASSETS

Inheritance Tax (IHT) on death is calculated on the value of assets at the date of death. If qualifying investments or land are subsequently sold at a lower price, relief from IHT may be available.

Relief can be claimed only by the persons originally liable for the tax attributable to the value (the 'appropriate' persons) and this may be the personal representatives, the trustees of settled estate or donees of lifetime gifts. A claim will not be possible if 100% business relief or agricultural property relief applied to the value on death as no tax was attributable.

### Loss on sale of quoted shares

If qualifying investments (primarily quoted shares and securities including gilts and authorised unit trusts) are sold within 12 months of death for less than their value on death, a claim can be made on form IHT35 for a reduction in the estate values. The relief will be the amount by which the aggregate probate value of all investments sold in that period exceeds the aggregate sales value.

All sales within the 12 month period must be included in the claim whether or not a loss is incurred. Any gains will therefore reduce the overall relief and it may be possible to minimise overall tax by deferring sales at a gain until more than 12 months after death.

Any purchases of qualifying investments by the claimant in the same capacity between the date of death and two months after the last sale included in the claim will restrict the relief. If a trust is established under the will, any shares transferred to the trust by executors who are also the first trustees must be assented to ensure that any purchases by the trustees are not made in the same capacity.

The sales value included in the claim are the gross proceeds before deduction of the costs of sale. The investments subject to a claim are revalued for capital gains purposes and a loss equal to the costs of disposal will arise on as a result of the sale of any shares included in the claim.

The sales must be made by the appropriate persons – sales made by a beneficiary after distribution will not normally qualify for relief.

The transfer of an investment to a beneficiary is not a sale for the purposes of the relief unless in satisfaction of a pecuniary legacy which needed the consent of the legatee.

The time limit for a claim for relief is five years from the date of death.

A claim made before the expiry of the 12 months from date of death will be granted on a provisional basis and clearance will not be issued until the relief is final.

A claim for relief once made cannot be withdrawn.

Careful calculation may be necessary in balancing potential claims for this relief, the capital gains position of the estate and the position of beneficiaries (particularly if they are charitable and exempt from Capital Gains Tax) in handling sales of qualifying investments.

### Loss on sale of land

A separate relief is available for sales of land within four years of death, with a time limit for submission of the claim of seven years from the date of death.

Unlike the relief for loss on sale of shares, relief cannot be claimed if the difference in value of a property is less than the lower of £1,000 and 5% of the value on death.

All sales of land within three years of death must be included in the claim but sales at a profit in the fourth year are ignored.

A purchase of land by the 'appropriate person' within three years of death and less than four months after the last qualifying sale will restrict the relief.

An adjustment to the sales value will apply if the interest sold is not identical to the interest held at death or if statutory compensation has been received for a restriction on use.

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