IHT Planning
UK Long Term Residents

The following guide looks at assets which can be held within an Ardan Portfolio Account to help reduce a potential UK inheritance tax (IHT) liability.

INTRODUCTION

A UK long term resident individual, regardless of the jurisdiction where they are resident, is subject to UK IHT on the value of their worldwide estate. This would include the value of their Ardan Portfolio Account.

Gilts and AIM shares are two asset types that can be held within the Ardan Portfolio Account, and providing certain conditions are met, can be treated as being outside of the estate for UK inheritance tax; even where these are held in a portfolio account owned by a UK long term resident.

GILTS

What are Gilts?

Gilts are UK government securities that have been issued by HM Treasury. They are issued to help raise money to pay for public services or fund state projects.

The Treasury can issue securities with the condition that they are exempt from UK taxation providing that they are in the beneficial ownership of persons who are not resident in the UK; these are known as FOTRA (free of tax to residents abroad) gilts.

Inheritance Tax benefits?

The Inheritance Tax Act 1984 s 6(2) states that securities issued with a FOTRA condition will be treated as excluded property providing they are beneficially owned by the individual. There is no longer any requirement for individuals to be non-UK long term resident providing they are non-UK resident. Therefore, a UK long term resident, who would under normal circumstances be subject to IHT on their worldwide estate, is able to benefit.

Residency status in the UK is determined by the Statutory Residency Test. This means that an individual could be considered a non-UK resident during a single tax year even where they have been a UK tax resident for their whole life.

Are there any restrictions?

- FOTRA securities that were issued prior to 29 April 1996 will only be exempt providing both the beneficial owner is both domiciled and ordinarily resident outside the UK.
- The requirement to be non-UK domiciled still applies to the three and a half per cent War Loan regardless of the date of issue.
- Unlike assets that qualify for business property relief, there is no statutory holding period that a gilt must be held for to be treated as excluded property. This allows gilts to be purchased prior to death and providing the account holder is non-UK resident in the year of death, the gilts are excluded property for UK IHT.

Taxation of UK Gilts for a UK Resident

If a UK domiciled individual were to move to the UK, the gilts are no longer considered excluded property and their value will be included in the estate for UK IHT.

Although any interest income that is received would be taxable, there is no capital gains tax (CGT) when they are sold.

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Can the Gilt be gifted?

For a non-UK resident, the gifting of a gilt is not considered a potential exempt transfer (PET) as it is a gift of ‘excluded property’ and so no UK IHT charge will arise on death if the usual 7 year period from the date of the gift has not been met. However, the position of the gift must be considered in the jurisdiction where the person is tax resident.

Although there no statutory holding period, care is required where gilts are acquired immediately prior to death, gifted and immediately sold by the recipient. HMRC could view this as a gift of cash and not a FOTRA security.

Considerations

- HMRC have declined to state that planning with the use of gilts will never be caught by the disclosure of tax avoidance scheme (DOTAS) rules.
- Although UK IHT would not apply on the gilts, death / estate tax may still apply in the jurisdiction where the individual is resident upon death.

AIM SHARES

What are AIM shares?

The alternative investment market (AIM) is a sub-market of the London Stock Exchange, it consists of small and medium size companies. These companies operate in different sectors and countries. They are able to sell shares on the AIM to raise funding.

What are the IHT benefits?

Providing certain conditions are met, AIM shares can qualify for 50% Business Property Relief. This means that 50% of the value of any AIM shares held at death can be excluded from a UK IHT calculation.

Are there any conditions?

AIM shares must be held for at least two years and still be held upon death. The AIM shares must also still hold their qualifying status when the claim is made.

Where an AIM listed share is about to lose its status, it is possible to dispose of the AIM share and reinvest the proceeds into another qualifying AIM share. The two year ownership period requirement will continue to apply from the date of the original share acquisition and it is not re-set on the sale.

What are the risks?

Many companies listed on the AIM are seeking funding for growth and not yet making a profit. Finding out information about a company can be difficult which can make share prices quite volatile and potentially higher risk.

If AIM shares lose their qualifying status, business property relief cannot be claimed, irrespective of how long they have been held. Specialist advice should be sought in each case to confirm if their qualifying status still applies.

IMPORTANT NOTES

For financial advisers only. Not to be distributed to, nor relied on by, retail clients.

Please note that every care has been taken to ensure that the information provided is current and in accordance with our understanding of current law and HM Revenue and Customs (HMRC) practice.

You should note however, that we cannot take on the role of an individual taxation adviser and independent confirmation should be obtained before acting or refraining from acting upon the information given. The law and HMRC practice are subject to change.