

Losses on shares from deceased estates (Lecture P1383 – 12.43 minutes)

There is an important IHT relief which has been available for many years and which is set out in ss.178 – 189 IHTA 1984. It is in urgent need of Government review.

One of the problems commonly faced by the personal representatives of a deceased taxpayer is that they may need to sell assets included in the estate in order to settle debts and the IHT liability, but they cannot do so until they have obtained a grant of representation which can take several weeks (and often much longer).

During the period between the date of death and the subsequent sale date, the market value of investments may have fallen and, in appropriate circumstances, a relief can be claimed for losses on sales of holdings of shares or securities which are quoted on a recognised stock exchange.

The relief also extends to sales of:

- units in authorised unit trusts;
- shares in open-ended investment companies; and
- shares in any common investment fund.

Unquoted shares and shares traded on the Alternative Investment Market are not eligible for this relief.

The basic rule is that the relief is only available in respect of sales of qualifying investments made by the personal representatives within the period of 12 months immediately following the death. All sales must be taken into account, including those which have realised a profit. In other words, the relief is based on the *net* loss from all the sales within this 12-month period.

However, if the personal representatives purchase qualifying investments at any time between the date of death and two months after the last sale within the relief, the loss on sale is reduced by the proportion which the aggregate purchase prices bear to the aggregate sale prices.

In this regard, the personal representatives' action checklist should therefore include the following:

- consider selling within 12 months of the date of death all qualifying investments which have dropped in value;
- retain qualifying investments which have risen in value (but, if need be, sell them more than two months after the last 'loss on sale' disposal); and
- review the estate portfolio of investments in good time before the 12-month period expires.

Example

Norman died on 1 June 2023, leaving the following holdings of qualifying investments:

12,500 ordinary shares in A plc (worth £100,000); and

6,000 ordinary shares in B plc (worth £30,000).

On 1 May 2024, Norman's personal representatives sold both holdings for a total of £110,000. However, on 15 June 2024, they purchased 8,000 ordinary shares in C plc (another qualifying investment) for Norman's estate at a cost of £28,000.

On a claim being made under S179 IHTA 1984, the loss on sale which is deducted from the probate value of Norman's qualifying investments is:

	£
Original loss on sale (130,000 – 110,000)	20,000
Less: Reinvestment: $(28,000 / 110,000 \times 20,000)$	<u>5,091</u>
	<u>14,909</u>

Unfortunately, as the Association of Taxation Technicians (ATT) have pointed out, many estates are presently struggling to obtain their grant of representation in time to allow the 12-month loss on sale relief to operate.

As a result, the ATT are suggesting that this 12-month rule should be extended to two years. Given the well-documented problems which HMRC and the rest of the civil service are suffering as a result of the COVID-19 pandemic, this idea will hopefully be taken up sooner rather than later.

Contributed by Robert Jamieson