

A woman with long, wavy brown hair, wearing a white t-shirt and a grey apron, is smiling and handing a small object to a customer. The background is a blurred shop interior with shelves of colorful items.

What is a Business Property Relief Trust?

A business property relief trust is simply a discretionary trust that takes assets that qualify for BPR

It is fairly common for spouses, where at least one of them owns a business and they wish to leave this to their spouse upon their death. On first death, this would be free of inheritance tax due to the spousal exemption.

Second death should also be considered. If a business qualifies for business property relief, it may also pass IHT free on second death (should it qualify for the full 100% relief). But there is the possibility that by the time second death occurs that BPR may not be available, for example:

- The surviving spouse may not want to run their late spouse's business
- A business partner may want to buy the deceased's shares off the spouse
- The surviving spouse may decide to run the business for a while but eventually sell it on in their old age to retire.
- The business could be run in such a way that BPR no longer qualifies at the date of death

This would lead to an increased Inheritance Tax liability, as an asset which is Inheritance Tax exempt (the business) is replaced by one subject to Inheritance Tax (cash) because Business Property Relief can no longer be applied.



A discretionary trust, which takes all assets which qualify for Business Property Relief, is often used to combat such a situation where a surviving spouse sells the business between first and second death.

The trust is its own legal entity and it will own the business rather than the surviving spouse. Should the business be sold between first and second death, the surviving spouse's estate is unaffected as the trust owns the proceeds rather than the spouse.

A letter of wishes is usually drafted to state that the spouse is to be treated as the main beneficiary of the trust whilst they are still alive. Upon their death, the letter of wishes could either direct that the trust be wound up and assets distributed to the beneficiaries, or alternatively it could continue to run if there is a need to protect assets for any of the beneficiaries.

Whilst BPR continues to be available, the business assets can remain in the trust and avoid ongoing anniversary and exit charges where the 100% relief is available. There may be anniversary and exit charges where assets only qualify for 50% relief.

By giving the BPR qualifying assets to a beneficiary that is not IHT exempt (the discretionary trust) instead of a beneficiary that is IHT exempt (the spouse), HMRC will be forced to make a decision as to whether the business assets qualify for BPR. If the spouse inherits outright, HMRC do not need to make a decision on whether the business qualifies for BPR as the spousal exemption applies. Knowing whether the business qualifies or not can affect the planning that the spouse wishes to make in the future, for example if the business did not qualify for the relief, they may wish to undertake more lifetime planning than they would if the business did qualify.

The usual benefits of using a discretionary trust will also apply, for example the flexibility to benefit all the potential beneficiaries if the need arises and offering protection from the beneficiaries remarrying and going bankrupt.