

100% relief

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Inheritance tax: the value of agricultural relief



Robert Cowie is a partner in Winter Rule, Cornwall's largest independent accountancy practice. Robert specialises in agricultural matters with particular emphasis on inheritance tax and capital gains tax. In the

following article he looks at various issues that farmers face in relation to Inheritance Tax and Agricultural Property Relief.

The Chancellor's announcement to combine the inheritance tax allowance for married couples and those in civil partnerships giving currently up to £650,000 relief was welcome news, but with land values, particularly in the South West holding up well despite the difficulties in the residential property market, we still have many clients with assets well in excess of this figure.

Agricultural Property Relief (APR) is an extremely valuable relief because it gives up to 100% relief from IHT for agricultural land and property for a working farmer, subject to certain conditions, or for land let out under a Farm Business Tenancy. Otherwise, the relief is only 50%.

APR relates to the land, and can be extended to the farm buildings, cottages, woodlands and farmhouse that go together with the land, providing they are kept together as one unit. Problems can arise where farms are split up or parts sold off, as the idea of this complete unit can then sometimes be lost.

APR is given on the agricultural value of the farmhouse and land. In the South West problems may well arise because the actual property value can be higher than its agricultural value perhaps because the land may be designated for future housing or commercial use or simply because it is in an area sought after by up-country buyers. The tax authorities will look at this very carefully and it will often have to be argued where the farmhouse has more than just a working look about it. The excess not covered by APR will be part of the estate for IHT purposes. The advice here is to keep it looking like a working farmhouse.

There has been much publicity about the "character" of the farmhouse in relation to its size, the area of land and the activities carried out on the land and the layout of the farm as a whole. Breaking this down with some examples:

- The character of the house – is it a mansion with modest acreage?
- The area of farmland – is it a modest farmhouse but with only a few acres?
- The farming activities – is it a modest farmhouse with land and only a handful of cattle?
- The layout – is the house lived in by the farmer but not physically attached to the land?

These are fairly common scenarios where APR could well be denied.

Due to its value in reducing or eliminating IHT, APR is worth preserving for the next generation. It also affords the only situation in the UK where the asset in which a person (the farmer) lives can be wholly exempt for IHT purposes.

careful planning

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However there are a number of important factors to consider and it is all too easy to create a situation where APR is denied – careful planning and advice is essential. The land itself must be actively farmed and the farmer must live in the farmhouse and undertake the day to day management of the farming operations. Sometimes we see a situation where the older generation owns the farm and lives in the farmhouse, but the younger generation carries on the farming and day to day management. Here, APR on the farmhouse would most probably be denied, and the rate of relief on the farmland could reduce to 50% because the older farmer is deemed to be no longer working.

Often cases arise where farmers seek to reduce their activities or retire from active farming by renting out the land itself. This can frequently give rise to greater income for considerably less effort, but because active farming has ceased APR on the farmhouse is denied. This does not mean that the land itself does not qualify for full APR providing the rental arrangements allow the owner to obtain vacant possession in less than one year, or it is under a Farm Business Tenancy.

One way round the drawback of renting is to enter instead into a share farming or contracting agreement. With these arrangements the important thing is that the day to day management and control of the farm remains with the owner and is not passed over to the contractor. Great care is needed with contracting arrangements.

The Revenue is not seeking to disallow APR in genuine commercial farming operations. The relief is there to enable genuine farmers to pass agricultural property on to the next generation, but with spiraling property prices coupled with a gradual change in the background of land ownership the Revenue is undoubtedly focusing greater attention in this area.

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