

Agricultural Property Relief: Making a successful claim

What is APR?

Agricultural Property Relief is available on the value of agricultural property which is transferred either within a person's lifetime (i.e. a gift) or through their Will on death. Important points to note in relation to APR are:

1. Relief for a lifetime gift depends upon a donees USE of the property
2. Direct involvement in farming is NOT always necessary
3. Non -farming activities CAN fall within the relief
4. Buildings must be of an appropriate character and it's ONLY the agricultural value which will be considered.

Failure to correctly apply for APR can have costly implications for the deceased taxpayer's estate. However it should be understood at the outset that APR is ALWAYS an area of contention with HMRC and as a result the vast majority of claims are subject to both scrutiny and challenge.

How does APR compare to BPR?

APR can have a wider appeal than Business Property Relief (BPR) since it is not necessary to show that the deceased taxpayer was directly involved in farming activities to claim the base relief.

APR does work in tandem with BPR and the two should and must be considered together for Succession Planning and will preparation. Sitting down with the client, their Accountant and in certain cases an Agricultural Valuer can assist in gathering all the relevant information; however, note that IHTA 1984 s.114 requires a professional advisors to consider APR before BPR.

What needs to be considered?

It is vitally important when dealing with a deceased estate where APR may be applicable for the solicitor to work with an Agricultural Valuer who will “stand their ground” and this may not be the local auctioneer the deceased’s family has previously had day to day dealings with.

The solicitor must consider all the aspects of the deceased estate, taking the time for a home visit and seeing the site on the ground, with the valuer if possible, and review all the growing case law precedents, and if there is any doubt the adviser should err on the side of caution and submit the claim.

Qualifying Asset

Whilst Qualifying Assets are set out in IHTA 1984 s115 and includes Cottages and farm buildings with occupied land, they must be of a “character appropriate to the property”. But what some advisors fail to take on board is that this is in addition to the main farmhouse and not as an alternative.

These assets, although not strictly agricultural DO include the breeding and rearing of horses, fish Farms and Stew Ponds (another common misconception for some advisors who immediately take the view that such activity is not agricultural).

What is Agriculture?

Agriculture is not defined in the IHTA but a definition is provided in the Agricultural Tenancies Act 1995 s.38(1) and the definition is wider than HMRC may first wish to consider on occasion.

HMRC are showing particular interest in smallholdings i.e. less than 20 acres , or situations where the deceased estate cannot demonstrate that the farmer was actively farming at the time of death, or if (as has been the case with farmhouses for a number of years) the buildings are so dominant that the ancillary rules are breached.

APR should not be ignored or treated as a given when advising on Succession planning and will preparation.

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