



Beginners Guide to Agricultural Property Relief

Agricultural property relates to agricultural land or pasture, which is bare land without property. It also includes woodlands and buildings used in the intensive rearing of livestock, providing they are ancillary to the occupation of the agricultural land and property. Cottages, farmhouses, and farm buildings, including the land they occupy, will be classed as long as they are of a character appropriate to the property. (However in many instances only a proportion of the value of houses on farmland is included within the definition.) Note that the grazing of horses does not amount to agricultural use.



Relief

APR is mainly of interest for IHT tax relief and provided the occupation and ownership rules are met, the relief attributable to the agricultural value of agriculture property is 100% if:

- Immediately before the transfer, the transferor had the right to vacant possession of the property or the right to obtain it within the next 12 months
- Property is let on a tenancy beginning on or after 1st September 1995
- The transferor had an interest in the land before 10th March 1981, where any land disposed of before 9th March 1981 would have qualified for 50% relief.

In any other circumstances, relief will be available at 50%

The other area of tax relief that APR applies to is the relief for Business Gifts legislation. If land qualifies for APR then it can be gifted as a business gift and no capital gain will arise on the gift.

Occupation & Ownership

The transferor must have owned the property for the purposes of agriculture for two years ending with the date of transfer, or owned it for a period of seven years, during which it was occupied by the transferor or occupied by another for the purposes of agriculture.

Occupation by a company controlled by the transferor is treated as occupation by the transferor for the purposes of establishing the period of occupancy.

Transfer within seven years before death of transferor

Agricultural relief will not be available unless the property comprised in the gift is owned by the recipient throughout the period from the date of transfer to the date of death and, throughout that period, the property is agricultural property occupied either by the recipient or another for the purposes of agriculture.



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Occupied for Agricultural Purposes

The term occupied for agricultural purposes is not specifically defined in tax legislation. The core definition is set out in the first paragraph, however, the following land uses are normally accepted by HMRC as being for the purposes of agriculture (HMRC IHT Manual paragraph 24061):

- Cultivation to produce food for human consumption
- Used to support livestock kept to produce food for human consumption, for example meat or milk or other products such as wool
- The keeping of other such animals as may be found on an ordinary farm, for example, horses kept for farm work
- The breeding and grazing of racehorses on a stud farm. This is not an agricultural purpose under general law, but is made one for the purposes of APR
- Land set aside for permanent or rotational fallow (note from April 2008 the set-aside rules were varied by the EU and whether this type of land qualifies for APR depends upon 'the merits of the individual case')
- Cultivation of short rotation coppice

Note that land that is normally used for agricultural purposes may occasionally be used for other purposes. Provided those other purposes are not the primary reason for the occupation of the land, the land should be regarded as occupied for the purposes of agriculture when considering a deduction for APR. One example is a normal working farm over which an annual point-to-point horse race is run. However, agricultural property, such as a farmhouse that is occupied by a retired farmer, who has rented the qualifying agricultural land to a tenant, who has sole responsibility for the upkeep of the rented land, is not occupied for the purposes of agriculture.

It is also useful to note that HMRC have defined circumstances when the land is not occupied for the purposes of agriculture:

- A person who lets a farm to a tenant farmer, who himself carries on the trade of farming, is not in occupation.
- Arrangements which do not confer exclusive occupation will not necessarily destroy the lessor's 'occupation' of the land (for example, grazing agreements).
- Any land let on a farm business tenancy will confer exclusive occupation upon the tenant and therefore the land owner will not be in occupation for the purposes of APR

Farmhouses

HMRC have a history of being very cautious about extending APR to farmhouses.

The rules state that the two tests of ownership and occupation have to be looked at separately in connection with the arable or pasture land, woodland, farm buildings and farmhouse. So it is possible for the farmland and outbuildings to qualify but for the farmhouse to be seen as occupied for non-agricultural purposes.

HMRC have won a number of tax cases regarding denying APR relief on farmhouses. From these cases a couple of criteria can be drawn

- 'a farmhouse is the place from which the farming operations are conducted'
- 'it must be a dwelling for the farmer from which the farm is managed'

HMRC have applied APR to farmhouse on a proportionate basis. Obviously an proportion would depend upon the circumstances of each case.

CAVEAT

This Beginners Guide is no substitute for proper specific professional advice and no liability can be accepted for any acts or omissions taken as a result of reading it. Tax law is complex, changes frequently and much will depend upon your individual, precise and detailed circumstances.

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