

Agricultural property relief

Farmhouse refurbishment

My client owns a farmhouse, which he lives in, surrounded by 170 acres of farmland, which is being farmed by a tenant under a long-term tenancy. I am satisfied that, when the tenancy has gone on long enough, the land will qualify for agricultural property relief (APR). The client now intends to refurbish the house, and he wonders if there is anything he can build into his plans to make some or all of the house qualify for APR as well – for example, parts of the house and attached barn buildings are currently used for farming purposes, and this could be extended or formally recognised.

Readers' suggestions and views would be welcome.
Query 20,704

– Giles

Focus on securing APR for the land and qualifying farm buildings

Under IHTA 1984, s 115(2) ([tinyurl.com/ye237ck9](https://www.tinyurl.com/ye237ck9)), a farmhouse can qualify for agricultural property relief (APR) where it is occupied, together with land, for agricultural purposes and is of a character appropriate to the agricultural land of which it forms part.

In this case, all the farmland is let to a tenant under a long-term tenancy and the tenant does not occupy the farmhouse. It also appears that it is the tenant, and not the client, who is the farmer, and therefore the occupier of the 170 acres of farmland for agricultural purposes.

HMRC's *Inheritance Tax Manual* at IHTM24091 ([tinyurl.com/bcc9yk2u](https://www.tinyurl.com/bcc9yk2u)) states that if all the land is let on a farm business tenancy or Agricultural Holdings Act 1986 tenancy, the owner 'will not normally be considered to be in occupation of the land for agricultural purposes and therefore will not be in occupation of the farmhouse for agricultural purposes either'. This is also reinforced by case law, with *Rosser v CIR* [2003] SpC 368 concluding that the farmhouse 'must be a dwelling for the farmer from which the farm is managed'.

Based on the above, it would appear that the client will be restricted in obtaining APR on the farmhouse where he is the occupier. As such, refurbishment works to the house will not of themselves improve the APR position.

However, where parts of the house or attached buildings are used wholly and exclusively by the tenant for farming activities, APR could be available on

those parts. For example, agricultural buildings such as barns, stores or offices genuinely required for the farming operations may qualify for APR in their own right if their use is properly documented and reflected in the tenancy. However, the occasional or ancillary agricultural use of rooms within the farmhouse by the tenant would not normally permit a proportion of the farmhouse itself to qualify, particularly if the client also uses those rooms for personal purposes.

Accordingly, planning should focus on securing APR for the land and qualifying farm buildings, and alternative IHT mitigation strategies should be considered for the farmhouse itself.

– Old MacDonald.

Tenancy is not the 'golden tax ticket'

There are a number of considerations here. First, the structure of let land around the farmhouse has a number of weaknesses in tax terms. To qualify for APR, the farmhouse must be occupied for the purposes of agriculture (IHTA 1984, s 117). Owning tenanted land is not considered sufficient agricultural use for the farmhouse to qualify for APR in generic terms.

Second, the practical application of s 117 is that the house should be occupied by someone working in agriculture for APR to be achieved. A tenancy is in 'tax terms' just let property, and with so many parallels throughout UK tax law on let property, it does not have the same advantages as 'farming in hand'. The practical agricultural problem of a smaller farm area is that the cost of farm equipment can make

farming 170 acres not cost-effective. Therefore, a tenancy is not necessarily the best tax route, but it is a guaranteed return. It could be more tax-efficient to look at a contract farm arrangement (CFA) whereby there is greater involvement in the farming operation. There is a well known tax case that gives guidance on using the CFA in the context of the relevant tax relief. The case in question is *Arnander and others executors of McKenna deceased v CRC SpC 565* [2006] STC (SCD) 800, which related to a small farming estate in Cornwall. The estate enjoyed a very large 'farmhouse' on which HMRC denied APR, and this decision was also won at tribunal.

In *Arnander*, it wasn't just the size of the house that was a negative but the lack of involvement in the farming operations by the deceased. There is obviously a parallel here to the tenanted farmland. The lack of activity by the owner of the farmhouse in the *Arnander* case included, for example, not attending meetings with those operating the CFA and the fact that the word 'farmer' was not even mentioned in the obituary when the owner died.

The current arrangement of the tenanted land, while relatively 'easy' for the client farmer in terms of work undertaken (and it should guarantee net income for the operation) will mean that APR on the farmhouse is not achieved, plus the IHT relief on the land is restricted to 50% APR (as opposed to 100%) and also restricted to agricultural value, rather than the market value that BPR allows. With the 100% BPR/APR allowance increased to £2.5m from April 2026, the relevance of the CFA or even 'share farming' should be considered to not just achieve APR on the farmhouse but BPR (at market value) on the farmland.

The 'golden tax ticket' would be to change the tenancy to farming in hand – but that comes with extra costs, hard work and the risk of loss. An in-depth review of the potential trading operations combined with the tax, legal and operational advantages and disadvantages needs full understanding by those concerned.

– Julie Butler, Butler and Co.