Farms, inheritance tax and succession planning

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Accountancy Daily, 10 Jul 2025

Tax expert Julie Butler FCA explains the options for farmers as the abolition of full agricultural property relief for inheritance tax purposes looms from identifying easy to sell assets to care plans and preparing for the unexpected

With succession planning very much on the minds of the whole farming community following the drop of APR (agricultural property relief) and BPR (business property relief) to 50% from April 2026, future farm cashflow is of prime importance.

The impact of the funding of care costs in old age is also a practical consideration that must be taken into account as part of this.

Farming families may have undertaken some estate planning to consider what happens when a family member dies, but the financial impact of long-term care in old age can be gigantic.

A live-in carer can cost up to £2,500/week, while it is not uncommon to see the weekly charge for residential care at £2,000. The cost can be much higher for nursing homes with medical facilities.

However, monies that had previously been set aside to fund care costs may now also be needed to cover the future inheritance tax (IHT) bill.

The reality is that while many farming families have taken care of their loved ones themselves and had planned to continue this, it is not always practical or appropriate consideration, particularly where the care needs are complex.

Given the cost of full-time care is likely to be far higher than the income from the vast majority of pensions (if the farmers have them, of course), there are difficult questions as to how the combination of care and IHT can be funded.

Funding later life care – the 'easy to sell' assets

One source of funding can be from a hit list of assets that could be sold. Many farmers hope that care and IHT will be funded by a small area of farm development, with such opportunities often seen as 'pensions' paying for any unforeseen problems.

To further complicate matters, a tax worry with the care home is the negative impact on the occupation condition for APR on the farmhouse (even if it is only available at 50% moving forward).

The sale of cottages may be seen as having a negative impact for the future of the farm but if they were difficult to let out due to the problems of repair standards and the new Renters Rights Bill, this may give rise to better opportunities.

For example, they could be replaced by new properties (dependent on planning permission), which can bring a positive contribution to both the cashflow and farm value.

There will be possible capital gains tax (CGT) to pay on the sale of the cottage. However, if it is a farm worker's cottage and the plan is to provide the worker with a new build it could qualify for rollover relief for CGT.

All tax planning must be considered in the round. One possible negative regarding development projects is the threat of compulsory purchase, especially if it excludes hope value. Good land agents are essential.

Basic farm succession planning

All the basic farm protection strategy should be in place, including:

Written partnership agreements

- Written partnership agreements should be regularly reviewed to see if they need updating to ensure that they stay relevant. Their content should correlate with what is set out in the partners' Wills on the death of a partner, ie, they should dovetail. It is also vital that all family farming members understand the nature of these agreements and what they mean in practical terms for the partners. It is important to check that the farm accounts reflect the partnership agreement obviously, as currently drafted.

Wills

- Make sure any interests in property and land are accurately recorded, so everyone understands who owns what assets and whether there are any claims over them. As part of the end-of-life planning it is pragmatic to identify which assets may have to be sold (as above), choosing those that will not affect the rest of the farming operation as much and considering the partnership or non-partnership asset status. It is essential to undertake tax planning from the get-go, ie, now or sooner! As mentioned, the funding hit list of assets that could be sold should be prepared as the future financial cashflow of the farming operation is going to be critical.

Surviving spouse relief (SSR)

- Surviving spouse relief (SSR) survived the 30 October 2024 Budget and must be used effectively by farm tax advisers to link to the tax planning needs of the farming family with regard to IHT.

Even where farming families have put in place some sort of plan, they can get caught out by the length of time for which they find themselves needing to pay for care. Plans may have been put in place 20 to 30 years ago when care homes tended to be for a shorter period of end-of-life care.

However, increases in life expectancy mean that growing numbers of farmers and their families are reaching a very old age and requiring care for much longer periods. All farm tax advisers appreciate what a resilient bunch they are, but the cost of care is a reality.

Not only does all succession planning need to be looked at afresh following reduced APR and BPR, the whole funding of care has to be considered with plans and discussions between the generations to understand everybody's long-term wishes. Medicals may be required to gain greater insight into life expectancy and/or long-term health problems, particularly where life insurance is being considered.

The role of the spouse in the farming partnership and also the care costs for spouses and younger members of the farming family must be reviewed now as part of full succession planning.

Planning against the unknown

Many tax advisers would argue that it is difficult to give strong tax advice with so many uncertainties at the time of writing:

- No working party feedback on farming for the environment tax policies generally'
- No legislation following the October 2024 Budget'
- The call made in the Environment, Food and Rural Affairs (EFRA) Committee report to delay the date for restricted APR/BPR to April 2027
- The Reform party's growing popularity and their proposal to remove IHT has resulted in some farmers becoming less focused and reliant on a change in government.

There are always problems with having to consider tax planning for the future and identifying tax problems beyond the point where farming business and family survival decisions have been made and legal agreements signed.

Tax planning should ideally be from the outset. The same applies to funding later life care. It might be that when looking at the combined tasks of funding IHT and after life care the picture is very gloomy.

Turning parts of the farm into 'cash' can take away the potential future restriction of APR/BPR to 50% after the first £1m. Therefore, the reality of a hit list of assets that could be sold as and when the need arises can be a solution to farm cashflow worries.

Such a strategy can exasperate farmers, as can organising medicals, but it is a reality and cushion for such problems. Ideally, the hit list would of course be a last resort, but it is important to identify the assets that could be sold without destroying the farming operation now or for the future generations.

These may include the cottages mentioned above or, pockets of land with its own access away from the main activity that could be worth more if they have high amenity/pony paddock value.

Of course, the sale of potential development land and buildings could be the saviour to funding and must be explored from every angle, especially as the Labour government is relaxing planning laws and promoting new houses. Work on these matters has to start!

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