

# Q&A



## Changes announced to agricultural property relief in the 2024 Spring Budget

### Author details

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### What are the changes announced in the Budget?

Further to Budget 2024, extended agricultural property relief (APR) will be available for lifetime transfers and transfers at death on, or after, 6 April 2025. APR will be available for land managed under an environmental agreement with, or on behalf of, the UK government, devolved administrations, public bodies, local authorities, or approved responsible bodies.

### What if farmers have entered into environmental or rewilding projects but die before 6 April 2025?

There has to be arguments to claim APR on the basis that there has been a delay in the formalisation of the treatment. Evidence will be important of the nature of the environment project and the history of farming. APR will be available where there is an agreement or undertaking in place for the environmental land management scheme on or after 6 March 2024. This includes an agreement or undertaking entered into before 6 March 2024 if it remains in place on or after 6 March 2024. APR will only apply where the land was agricultural land for at least two years immediately prior to the land use change. There will not be a need to show the land was used for agricultural purposes and would have qualified for agricultural property relief before the land use change. The protection of business property relief (BPR) should be considered in the context of the overall business. In fact, with ill or elderly farmers BPR availability should be reviewed now.

### What other measures should farmers take?

Existing holding periods for APR will not be restarted by land use change. It is sensible to ensure that the agricultural use of the land is well recorded and evidenced prior to entering into an agreement. Indeed all farm tax advisers should ensure that the history of farming is recorded and evidenced as back up. The protection of BPR will be important in all these situations and should be analysed as back up protection. Concerns over too many investments and IHTA 1984, s 105(3) and the recent case

*Eva Mary Butler and others* (TC8949) must be considered where there is a position of what appears to be trading diversification but might be reclassified as an investment.

### What about the the valuation of land under environmental contracts?

The valuation of land will be complex under environmental contracts. The valuation of the qualifying land will be the market value of environmental land subject to the special assumption of a restriction to its existing use. Every case will need tailor made tax and estate planning. The planning valuation will be complex and need to be understood for tax and estate planning. The farming family business will have to consider the full impact on future farm distributions and inheritance moving forward.

### What will qualify for relief where a building is occupied?

All the traditional criteria to achieve APR on the farmhouse will apply, eg the *Antrobus* rules and what was learnt from that case will be relevant. The history of the role of the farmhouse in agriculture, the history of the relationship of the farmhouse as connected to the land will be strong arguments, especially with the wording of 'consistent with current rules'. However, it is difficult to predict what HMRC's approach will be on enquiries. It is important to understand at an early stage reports from fellow professionals of the approach of HMRC enquiries. Indeed as with all tax, APR on the environmental schemes it will be important to understand how the practical interpretation of the tax guidance evolves.

### What are the implications for advisers?

It is understood that a joint Treasury and HMRC working group with industry representatives has been formed to identify solutions that provide clarity on the taxation of ecosystem service markets where existing law or guidance may not provide sufficient clarity. Many see this as the whole taxation of 'farming for the environment' being kicked down the road. This leaves farm tax advisers 'swimming in mud' to try and decide the tax position on all environment land management projects. What tax tips are there?

The guidance is quite clear about using 'existing law or guidance' so there is a historic guidance and general strong tax principles. Forensic analysis of the farming operation must be undertaken and the contract for the environmental scheme must be understood. Disclosure, transparency and client understanding will be important.

The accounts treatment will be key with the following of traditional tax and accounting standards. The accounting policy should be shown in the accounts. All tax reports should refer to the fact that formal guidance is still awaited as should submissions to HMRC. There are strong arguments for a simple treatment of the income and expenses with influence from the results of the consultation. For example, being prepared to provide for future maintenance costs of environmental projects.

Some would see this as an opportunity for tax advisers to take advantage of the lack of clarity which highlights the need for all interim tax treatments to be well researched, well documented and, above all, well evidenced. ●