Slashed farming IHT relief causes farm revolt

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The removal of favourable inheritance tax for farmers has created a nightmare for generational farmers. Farming tax experts Julie Butler and Libby James of Butler & Co examine the tax planning options

Chancellor Rachel Reeves with a sweeping stroke has slashed the long-standing favourable inheritance tax reliefs (IHT) for farming in the recent Budget, limiting 100% agricultural property relief (APR) and business property relief (BPR) to the first £1m of value.

Above that threshold, there will be 50% relief on qualifying assets, giving an effective IHT rate of 20%. At the time of writing, it appears that the full impact of the decision on small businesses has not been realised, with much of the focus placed on farmers.

Farming is perhaps unique in that the majority of farmers 'die with their boots on' whereas most other small business owners are likely to step back from their business and cease trading before it gets to that point. Whilst they are perhaps more concerned with the capital gains tax (CGT) changes rather than passing down the generations, the IHT reality looms for all small business owners and should not be dismissed.

This drastic move has been widely condemned by the National Farmers Union (NFU), the Country Land and Business Association (CLA), the Tenant Farmers Association (TFA), land agents and other farm advisers, saying that it will cause the break-up of family farms and hamper the UK's ability to meet environmental and food production commitments.

TFA chief executive George Dunn fears for the future of tenanted holdings, saying that large let private estates would be hit more heavily as they will likely breach the £1m limit, which in turn could lead to a significant amount of disposals to pay the hefty death taxes due.

Indeed, many would argue that given current land values, all but the smallest of farms will be hugely impacted by these measures, despite what the Chancellor may say.

The farming community is angry, focused and connected since the Budget which many believe will bring an end to businesses that have been around for generations, reflected in calls from many of our clients.

The CLA and NFU are busy planning marches of protest against the changes, with a major march on parliament planned for 19 November, but the Treasury has said there will be no amendments or mitigations to the policy.

Time to plan before April 2026

The change will take effect from April 2026 and marks the start of another busy year for farm tax and legal advisers as families restructure land, farms and other assets to beat the deadline.

After that, it is expected the move will force more land onto the market in order to avoid future IHT liabilities. Chancellor Reeves stated that approximately 75% of farms and landed estates would be unaffected by the reduction in IHT reliefs, however, the CLA says it would affect 70,000 farms.

It is considered by many that the 75% of claimants within the £1m allowance could only cover people with a field or two, not real trading farms in today's world. It is therefore vital that the £1m threshold is one of the first planning considerations, likely to drive the structure and ownership model of the business moving forward.

Nil rate bands remain

The £1m 100% APR/BPR threshold will apply in addition to existing nil-rate bands, and transfers between spouses and civil partners will continue to be IHT-free. This new allowance will be apportioned proportionately between agricultural property and business property attracting 100% relief, unlike the current rules where APR takes priority.

It applies to transfers both in lifetime and death, and any unused allowances will not be transferable between spouses so careful planning is called for.

Independent of this £1m threshold, personal nil-rate bands are being frozen for a further two years, until 2030. This means that the first £325,000 of any estate continues to be inherited tax-free. This can then rise to £500,000 with the aid of the residential £nil rate band if the estate includes a residence passed to direct descendants.

Farmer aged 80

Those that are most concerned by these changes are the elderly landowning farmers that have not passed down the farm ownership of the family partnership to other family members. Indeed, they may well have been advised to hold onto the farm until they die as it is (or rather, was) tax efficient to do so.

As an example, let's look at Farmer 80 who is, yes, aged 80, and understandably scared about April 2026 on statistics alone. The farm is worth £4m so there is some restructuring that needs to take place.

He decides to pass £1m of the farm to his wife (75) now so that if she pre-deceases him, she will be able to use her limit. He farms with his sons so should also consider passing £1m of farmland to each of them to start the seven-year gifting clock ticking now.

Farmer 80 can undertake a holdover election and lifetime transfer of agricultural land to defer the CGT, although his sons would then take on his lower base cost.

Surviving spouse exemption

One relief that 'survived' (pun intended) the Budget was the IHT surviving spouse exemption. This can be used for integrated IHT planning but can be a very sensitive subject with farmers not wanting to lose control.

As part of all the work that lies ahead there are some difficult questions to ask clients on health, life expectancy and marital status.

This will therefore need to be handled with care by both advisers and family members, and all involved must fully understand the implications of the decisions being made.

The changes due to take place to APR and BPR with effect from April 2026 will significantly impact trading farming businesses and farmers who have been thinking of gifting and passing down to the next generation but have put off either due to inertia or worries over losing control and family protection.

Seven-year rule stays

Treasury papers released after the Budget speech confirmed that transfers to individuals more than seven years before death will continue to fall outside scope of IHT. If the capital gains tax (CGT) gift relief rules remain unchanged, then going forwards, there is likely to be a visible increase in lifetime gifts by parents to their farming children to mitigate the IHT liability. Such action needs a lot of work, understanding and legal protection.

It is also important to bear in mind that the new rules apply for lifetime transfers on or after 30 October 2024 if the donor dies on or after 6 April 2026.

As such, if Farmer 80 gifted £2m of farmland to his sons now but died within seven years at some point after April 2026, his £1m lifetime allowance would already be utilised by this failed PET (potentially exempt transfer).

However, the value of the transfer will have been fixed at the value at the date of gift rather than at the date of death which will be beneficial for any appreciating assets.

APR for environmental land

The Chancellor confirmed the extension of the existing scope of APR to include land subject to environmental schemes from 6 April 2025, as proposed by the previous administration.

Whilst this does at least recognise the changing nature of agricultural activity, there is still a need for tax guidance post the working party to help with the overall tax planning that now faces farmers.

The extent of APR is relatively broad and includes the mainstream agricultural support - environmental land management (ELM) - but also land managed under an environmental agreement with or on behalf of the UK government, devolved administrations, public bodies, local authorities or approved responsible bodies, taking in statutory schemes such as biodiversity net gain and nutrient neutrality.

Selling and CGT

For those thinking of selling farms whilst farm values appear high, this Budget also brought changes to the favourable CGT rates for non-residential property of 10% and 20%, aligning them with residential rates at 18% and 24% with immediate effect. This will need to be taken into account in any calculations.

Business asset disposal relief (BADR) from CGT liabilities was maintained in the Budget, although changes to the rate are to be phased in. This relief can be claimed on the first £1m of gain when a business is sold or otherwise disposed of, currently bringing down the effective CGT rate to 10%.

However, while the relief threshold stays in place, the rate will rise to 14% from April 2025 and then to 18% from 2026.

There has been much asked therefore about what will happen to the value of farmland following a possible flood of farms to the market. This increased supply, combined with farmland now appearing less attractive to farming families, may result in reduced demand and a potential decrease in values.

Many argue that this will allow large farming corporates to swoop in and buy up farmland, marking the end of the family farm. Conversely, with the increased rate in CGT there could also be a rise in the 'rollover buyer' which may be enough to keep land values buoyant.

There are mixed views about what will happen to the farm property market. Butler & Co have found that farm profitability has been better in 2023/24 than expected and this compared with strong profit from harvest in 2022/23.

The reasons are manyfold (and are on a farm-by-farm basis), but factors include the fact that they are still receiving some of the BPS (basic payment scheme), diversification projects may have survived initial teething problems, plus rents received are high.

Profitability is therefore a positive factor – the farms can produce a return with careful planning and diversification. However, in reality the impact of market forces can be unpredictable and we will have to continually monitor.

Action points

There are now action points to consider, for example:

- Meetings to discuss exactly what is needed by the farming family, their desired outcomes and to understand how the tax planning can integrate. It's very much tailor-made tax planning process, definitely not 'one size fits all'!

- Obtain current valuations and predicted future valuations to carry out calculations of IHT liabilities in a number of scenarios.

- Ensure all lifetime transfers are supported by legal protection such as partnership agreements, Wills, etc, and a full understanding within the family.

- Farm accounts must reflect all the changes for lifetime transfers with strong disclosure, good notes and use of the land capital account.

- There will be technical tax changes and more details coming in with the Finance Act which will need flexibility.

- Likewise, there will be family change of directions as the full reality is understood by the farming community.

There are a few nightmare situations that would need to be planned for, such as the farmer who dies on 16 April 2026 with £20m of hope value. This is a cashflow drain of £4m on a project that has not been developed.

Another would be s105(3) BPR failure (as an all or nothing test) for farms with reasonable levels of investment income, resulting in liabilities of serious amounts of tax.

That said, it will be interesting to see if HMRC's approach to businesses and their levels of investments compared to trading will remain as harsh as they currently are, see the *Kingsworthy Meadow Fisheries* and *Butler v Wildin 1988 BTC 475* tax tribunal cases as examples. Could we see a softening in their stance as they will be getting 20% tax outright without the litigation?

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