

# What a relief

Julie Butler explores how farms will be affected by the increased inheritance tax relief threshold, new spouse transfer rules and the ongoing risks around valuation, occupation and trading status, and how practitioners can maximise these opportunities for their clients



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**F**armers were given an early Christmas gift on 23 December 2025 when the government announced the increase – to £2.5m – of the allowance for 100% agricultural property relief (APR) and business property relief (BPR). This change, together with the ability to transfer any unused amounts between spouses / civil partners announced in the autumn budget, marks a major shift in inheritance tax (IHT) planning for farming families.

This change could alleviate IHT pressure for most mid-sized family farms, although tax advisers and legal practitioners still have much work to do to ensure that 100% claims are robust and that any lifetime transfers undertaken are included in new succession planning.

Attention returns to Agricultural Holdings Act tenancies restricted to 50% APR and non-partnership property only achieving 50% BPR. The risk of the investment vs trading status also remains, where all BPR could be lost if the activity is deemed to be that of investment (see the cases of *Balfour* and *Butler*, cited later). Correct farm valuations will be essential to fully understand any weak areas, and thorough scrutiny is needed to ensure other areas remain 'safe'.

## Impact on lifetime transfers

While farming families will have welcomed the news regarding the 100% APR / BPR allowance, tax and legal advisers could be forgiven for having more mixed feelings. However, a lot of the tax work already undertaken to conform to the previous regime hasn't been in vain and still needs to be followed through, including the following:

- analysis of the farming activities to

ensure that the 100% IHT qualification can be achieved in marginal areas.

- registering unregistered land to ensure good housekeeping is in place
- understanding ownership and occupation, especially as non-partnership property only achieves 50% BPR
- understanding how the transferable spouse allowance applies to the circumstances and how it can be maximised
- fully exploring the role of the spouse / civil partner in the farming business following the introduction of the transferable APR / BPR allowance and the survival of the spousal exemption, and
- ensuring that the diversified farm will not fall foul of section 105(3) of the inheritance Act 1984, which states that relief does not apply if the property exists "wholly or mainly" for making or holding investments.

For recent case law, see:

- *Commissioners for HMRC v A.M. Brander (as Executor of the Will of the late fourth Earl of Balfour)* [2010] UKUT 300 (TCC)
- *Butler and ors v HMRC* [2023] UKFTT 00872 (TC)
- *Demetriou & Anor v HMRC* [2024] UKFTT 830 (TC), and
- *Executors for the Estate of the Late Gertrud Tanner v HMRC* [2025] UKFTT 00328 (TC).

## Legal consequences of cohabitation

Despite the misleading myth of a 'common law marriage', UK law does not grant unmarried couples the same legal protections and tax reliefs as married partners. This can have serious legal and financial consequences if a relationship breaks down, especially where a family farm is involved. All family members and partners should seek legal and tax advice on their specific position, not only to help farm survival with regard to maximising tax relief, but also for their own protection.

The legal protection and stronger IHT position provided by marriage is highlighted following the survival of the spousal exemption and the new transferable £2.5m APR / BPR allowance. For some

long-term cohabiting couples, formalising the relationship through marriage or civil partnership may reduce the IHT liability that will arise on the death of the farm owner, and possibly prevent the need to sell or reduce the size of the farm to meet the IHT bill. Although matters are strongly improved by the increase in the APR / BPR allowance to £2.5m, a detailed review is still needed.

Open conversations with unmarried partners are essential to clarify expectations and tax relief. Informal arrangements offer limited rights in legal terms and, given the new IHT implications, these issues now need to be addressed directly. Every farming business has to be assessed on a case-by-case basis. When the allowance was set at £1m, a large amount of lifetime gifting was undertaken, and this has to be incorporated into any revised planning. Although such work hasn't been wasted, it must be utilised in a positive and proactive way.

## Cohabitation agreements

It's important that those in the farming community understand what a cohabitation agreement is – a legally binding document outlining what happens if a relationship ends – and if it would meet their needs. For farming families, such an agreement can be valuable in giving other farming business partners confidence with regard to the protection of assets. Key benefits of such an agreement include:

- providing clarity regarding ownership of the farmhouse, farmland and farming assets
- setting out financial arrangements, including each partner's contributions to the business
- recording how each partner participates in the business – the work they do, how they're paid and their responsibilities (tying into the partnership agreement)
- specifying how business or personal assets are to be divided if the relationship breaks down, and
- addressing inheritance issues if one partner dies.

The death of a farmer after April 2026 can cause concern if they are the holder of relevant assets, given that the restriction

to 100% APR / BPR applies from this point onwards. Some updated cohabitation agreements will likely evolve into nuptial agreements, whether pre- or post-marriage. What's clear is the considerable benefit that the surviving spouse relief and the transferable £2.5m allowance at 100% provide for APR / BPR planning.

### Importance of farm valuations

The value of assets for an IHT claim and at the planning stage should be their market value at the date of death. From April 2026, the limitation of full relief to a combined £2.5m (previously £1m) of qualifying assets makes this far more significant. The valuation of farming assets usually calls for the services of a professional valuer, with a qualified probate practitioner applying for probate and submitting the IHT claim. When HM Revenue & Customs investigates a claim by calling in the Valuations Office Agency, having a valuation by a qualified professional helps to support the claim. As farms are of high value, and as the valuation is so integral to tax planning, it's advisable to have it carried out to the highest standard and with a very

practical focus, especially for establishing if and when the 50% is triggered.

### Use of farm assets

How farm assets are used affects their value. For example, letting buildings on a handshake to a third party for non-agricultural uses can cause problems, as such an action – with correct legal help – may have created a 'secure business lease' under the Landlord and Tenant Act 1954. This may reduce the market value of the asset and the farm. In addition, if this was done without planning permission for a change of use, it may also have a negative impact on value. Similarly, any breaches of planning requirements or listed building regulations – or planning permission conditions that haven't been fulfilled – could also affect the value of the farm.

Although some farmers and landowners may initially try, it is not advisable to utilise disorganised chaos in terms of planning permission and leases as a way to devalue assets to reduce IHT. Valuers should, in fact, be made aware of any such problems so they can factor them into their specific and overall farm valuation. It's important

that farmers disclose all the information to the valuer; the more transparent the information, the more accurate the valuation. This in turn proves more useful in tax planning, general farm planning and housekeeping for legal documentation.

### Summary

The increase in the IHT allowance to £2.5m is significant for smaller / mid-sized farms, meaning that for married couples, £5m (£2.5m × 2) of the farm can achieve 100% APR / BPR. For larger farms, the lifetime transfers are very useful. Whatever reservations advisers may have, they need to undertake a deep dive into valuation, occupation, irregularities and eligibility for 100% APR / BPR, and then pull it all together as an overall planning exercise.

The good news is that because farmers have been focused on IHT issues since the first announcement on 30 October 2024, these subsequent increases in the allowance will only help them to better manage their IHT liabilities. But there's no room for complacency – focused follow-through is essential.