



# The meat of the matter

*The recent scandal of horse meat being found in supermarket burgers highlights the use of horses in the food chain, but what are the tax implications for farmers of grazing such horses – or any horses – on their land? Julie Butler explains*

**T**here has been, over the decades, much debate as to what is actually farming, and what is agriculture. Much of this debate has extended to activities involving horses. The breeding of horses qualifies as agriculture as set out in section 115 of the Inheritance Tax Act 1984 (IHTA 1984), but does the horse qualify as livestock for agricultural purposes?

The inheritance tax (IHT) case that considers the qualification of the grazing of horses for agricultural property relief (APR) is *Wheatley's Executors v CIR* (SpC 149) [1998].

The result of the case was that a meadow used for grazing horses failed to qualify for APR. The meadow had been owned by the deceased throughout seven years prior to his death. The field was subject (during all that time) to a grazing agreement. The meadow constituted "pasture" within section 115(2) of the IHTA 1984, but the meadow was not "occupied for the purposes of agriculture", as on the evidence presented to special commissioners, the horses were not livestock, as they were not connected with agriculture, but were used by their owner for leisure pursuits.

## THE BREEDING OF HORSES

As mentioned above, "agriculture" is specifically extended to include the breeding and rearing of horses (section 115(4) of the IHTA 1984). The one quirk of that extension is that the breeding and rearing of horses is included only where those activities are conducted on a stud farm – that is, there must be agricultural land. HM Revenue & Customs (HMRC) has used this to suggest that, for IHT purposes, such horse-breeding and rearing has to be a commercial activity.

## THE GROWING OF GRASS

It is clear that activities connected with the growing of a crop of grass are an agricultural operation; what does not follow automatically is whether the main purpose of occupation is to conduct those agricultural operations. The decision in *Wheatley* has been criticised on the grounds that the act of growing grass, which can properly be regarded as a 'crop', should be treated as an act of husbandry, irrespective of the way in which the crop is exploited or utilised, provided the land is occupied for the purposes of those husbandry operations, and not mainly for another purpose. This has not been challenged in tribunal, but it was always assumed that at some point such a challenge will be made possible, combined with the angle of the 'horse in the food chain'.

## DECLARED FOR THE FOOD CHAIN

Guidance is given in Inheritance Tax Manual IHTM 24068 (Agricultural purposes: Stud farms) on the tax implications of a horse declared to be part of the food chain. The manual sets out: "With any other horses, there will need to be a link with agricultural use, for example, where horses are used as draught animals on a working farm, the grazing of such horses will constitute agricultural use. This will also be the case where the horses being grazed are declared to be part of the food chain under the horse passport scheme introduced at the end of November 2003. The grazing

of horses used for leisure pursuits will not constitute occupation for agricultural purposes."

If it is accepted that every horse grazed on the relevant land, whether the purpose is leisure or otherwise, has a passport, and that each passport states that the horse can be used in the food chain, then the grazing of those horses will qualify as agriculture, and the meadows they graze on will qualify for APR.

Does the introduction of passports in 2003 – and recent much publicised proof, following the supermarket burgers scandal, that horses are used in the food chain – mean that the grazing of horses does now qualify for agriculture and that horses are livestock? Many would argue that the *Wheatley* decision should be approached with care.

## HORSE LIVERIES

In future cases involving horses and land, there could be very strong arguments for APR to be allowed. For instance, a livery business providing grazing, where those horses are later used in the food chain could be very pertinent with regard to APR claims for both the farmhouse and the farmland.

In such a scenario, there are strong arguments that the commercial grazing of horses for livery should now qualify for APR. There is the combination of the growing of a grass crop for the horses to eat, together with the majority of horses ultimately being used in the food chain, which presents very strong evidence that grazing liveries for horses should qualify as agriculture for the purposes of APR in respect of land on which the horses graze. This evidence would extend to the farmhouse in which the livery operator / farmer resides. Such evidence can have a very significant impact on the claims for APR moving forward – and also claims currently being debated.



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