

FOCUS ON

Inheritance tax and farmhouses

Good news for farmers as the Upper Tribunal has upheld the First-tier Tribunal decision in the Hanson case, confirming the taxpayer's entitlement to relief from inheritance tax in relation to a farmhouse.

When is Inheritance tax payable?

Inheritance tax (IHT) is normally payable on an estate when somebody dies - and it is sometimes payable by trusts, and on gifts made during someone's lifetime.

IHT is payable at 40% on the value of an estate which exceeds the chargeable threshold of £325,000 (in 2015/16), or at 36% if a charitable donation enables the estate to qualify for a reduced rate. There may also be an additional nil rate band of up to £175,000 available where an estate includes the home of the deceased. That applies for periods commencing on 6 April 2017.

What is Agricultural Property Relief?

Agricultural Property Relief (APR) provides relief from IHT for the agricultural value of a farmhouse which is occupied for agricultural purposes with agricultural land - subject to meeting certain conditions as to the period of occupation and ownership. (But it should be noted that APR only covers the 'agricultural value' of land, and farmers should be aware that there is likely to be a difference between the market value of their farmhouse and its agricultural value).

“*Farmers should take this opportunity to review the current ownership and occupation structure of their farmhouses and agricultural land...*”

When does a farmhouse qualify for APR?

The IHT legislation states that "Agricultural property" means agricultural land. This also includes such cottages, farm buildings and farmhouses, together with the land occupied with them, as they are of a "character appropriate to the property".

A farmhouse is commonly defined as 'a dwelling for the farmer from which the farm is managed' - meaning that farming operations or management activities must be conducted at the property for it to be a farmhouse.

When is a farmhouse of a 'character appropriate'?

There are a number of factors to consider in determining whether a farmhouse is of a 'character appropriate' for an APR claim.

Points considered by the courts in this context include:

- Whether the house is appropriate in reference to the size and area being farmed.
- How long it has been a farmhouse and historically linked to the land which is used for agricultural purposes.
- Whether the land predominates so that the farmhouse is ancillary.
- Whether an educated rural layman would regard the property as "a home with land" or a "farm".



Must the farmhouse and the land be commonly owned?

One of the key questions which arises in the context of APR claims on farmhouses is whether the farmhouse and the agricultural property in question need to be commonly owned, or just commonly occupied, for APR purposes.

This question was most recently considered in the Hanson case.

What happened in the Hanson case?

In the case of HMRC v Joseph Nicholas Hanson (as Trustee of the William Hanson 1957 Settlement) (2013)UKUT 0224 (TCC) ('the Hanson case'), the farmhouse was owned by a life interest trust of which the former working farmer was the life tenant. But by the time the life tenant dies, the farmhouse was occupied by his son - who also ran the farming operation on the property which he personally owned.

HMRC argued that on his death, APR was not due on the farmhouse (which, as the life tenant, formed part of his estate) because there had to be common ownership of the farmhouse and the agricultural land by which the character of the farmhouse is judged.

In this case, the taxpayer - who was both the trustee of the interest in possession trust and the life tenant's son - who occupied the farmhouse and ran the farm - argued that the character of the farmhouse can be judged by reference to the land if both the land and the farmhouse are in common occupation, as they were here.

The Upper Tribunal agreed with the First-tier Tribunal decision that common occupation was all that was required to establish an APR claim. They noted that "a single farming unit is likely (at least it is not easy to envisage a case where this is not so) to be in a single occupation. That is why occupation can be taken as a reliable touchstone for identifying 'the property'.

What action should farmers take now?

Farmers should take this opportunity to review the current ownership and occupation structure of their farmhouses and agricultural land to ensure that their potential APR claims are best protected in accordance with current APR law. In particular, (i) it is critical to ensure that occupation is tied into the agricultural activity, and (ii) contemporaneous evidence should be retained to support any future APR claim.

Contact Us

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