



TAX

PUBLICATION DATE: 9 FEBRUARY 2021

REFERENCE

GN07-21

GRAZING LICENCES, AGRICULTURAL PROPERTY RELIEF AND BUSINESS PROPERTY RELIEF



(This guidance note replaces GN20-14 which should be deleted from your files)

The Autumn Budget 2024 has announced restrictions to Inheritance Tax (IHT) reliefs, effective from 6 April 2026. Under these proposed changes, the first £1 million of agricultural or business property will qualify for full relief, with any value above this threshold receiving 50% relief. These changes remain subject to consultation, and the CLA will keep members informed of developments as they unfold. For assistance, please contact the CLA tax team or consult your professional advisers.

1. INTRODUCTION

If you have entered into a grazing licence or are considering doing so, this guidance note highlights the key issues you need to consider in relation to maintaining the available inheritance tax reliefs.

Please note: this guidance note is an overview of this area only and specific advice should be sought before any steps are taken. The note only applies to land in individual ownership or to land held in an 'ordinary' partnership: companies and LLPs are not considered. This note only considers tax matters; it does not look at BPS issues.

2. WHAT IS AGRICULTURAL PROPERTY RELIEF (“APR”)?

APR is a relief from Inheritance Tax (“IHT”). If an asset complies with all the detailed conditions in the legislation, APR will be available to reduce by a set percentage the otherwise taxable value of the asset. APR will be available on the **agricultural value** of agricultural land which is transferred on death (or in lifetime). APR will not be available on any non-agricultural value, for example development value. The land must satisfy **one** of the ownership and the occupation conditions.

The APR ownership condition:

To qualify for APR under this condition the land must be owned by the landowner AND used for agricultural purposes (i.e. farmed) throughout the seven years immediately before death or transfer. The owner who satisfies this condition may qualify for relief even if the land is let to a tenant.

Land genuinely used for grazing by animals used for agriculture should qualify as land used for agricultural purposes. Thus, provided it satisfies the conditions above such land should qualify for APR. (Please note that generally speaking, APR will be at 100% or 50% depending on the age and type of agreement in place. Broadly, APR is normally available at 100% unless the land is let on a tenancy which began before 1 September 1995; in which case, relief is limited to 50% if the owner is not entitled to vacant possession within 12 months or by concession within 24 months.)

The APR occupation condition:

The land must be owned by the landowner AND used by HIM/HER for agricultural purposes (i.e. farmed) throughout the two years immediately before death/transfer.

Again, as with the ownership condition, grazing by animals used for agriculture should qualify as an agricultural purpose. The issue here is the question of **occupation** which is **considered below**.

Where this condition is not met (including where the ownership condition is met) and the landowner lives in the farmhouse, this may have implications for the availability of APR on the farmhouse.

3. WHAT IS BUSINESS PROPERTY RELIEF (“BPR”)?

Where a genuine trade is being carried out BPR can be available. BPR is another relief from IHT which may be available to a farming business. BPR only applies to trading businesses and NOT investment businesses. APR must be applied before BPR, but BPR may bridge the gap between agricultural value and market value.

BPR conditions:

Broadly, to attract BPR, the business must have been:

- (1) A business or an interest in a business, e.g. a sole proprietor's business or a share in a partnership; and
- (2) Owned by the transferor/deceased for a minimum period of two years immediately preceding the transfer or death.

It is important to note that a business does not attract BPR if it consists wholly or mainly of dealing in land or buildings or making or holding investments (i.e. if the landowner was merely renting out the grazing land and not undertaking any activity, the land would not qualify for BPR). The issue here is how to ensure that a business is a trading business and NOT an investment business. This is **considered below**.

BPR is available at 50% (as opposed to 100%) where assets are used in a partnership but owned by a partner as opposed to the partnership.

Occupation and IHT reliefs

For the landowner to be regarded as being in occupation of the land for APR purposes and also to be carrying on the trade of farming for BPR purposes, the landowner must be 'growing grass' for the grazier. The grazier only has a licence to enter onto the land to access the grass crop, i.e. he is paying for the right for his animals to eat the grass.

Thus, where land is let on a grazing licence it is important to provide in the agreement and in practice that the landowner is responsible for growing the crop of grass and that the grazier's use of the land is restricted to just grazing.

To be able to claim IHT reliefs it is **essential** that what happens in practice, (i.e. on the ground), reflects the agreement as HMRC may investigate this. This means that the landowner, must **actively perform or manage** activity on the land. This would include **mowing**, fertilising, seeding, topping, harrowing, rolling and controlling weeds on the land. Evidence of assisting with looking after the animals for the grazier can also be helpful. Acts of maintenance alone (such as maintaining hedges, fences and gates, ditches and drains) would not be treated as husbandry/farming but should be carried out **in addition** to the other activity (above).

If the landowner allows the grazier to mow and fertilise it is likely that HMRC will reject any claim for APR and/or BPR. This is because it is their view that where a landowner has allowed most or all of the agricultural land to be occupied on a grazing licence where he or she does nothing but collect the rent and maintain boundaries, the landowner will not be considered to be in occupation of that land or to be carrying on the trade of farming. This has a knock-on effect on the availability of APR on the farmhouse: where there is no farming activity actually being carried out, any associated house cannot be considered to be a farmhouse, and as such would not be eligible for APR.

Horses

The grazing of horses is generally **not** considered to be an agricultural activity. The situation may be different where horses are used for the purposes of farming; for example, where they are part of the food chain, part of a stud farm or where they are used as working horses on the farm. If the landowner is aiming to secure APR and/or BPR, he or she should therefore graze animals used for farming (i.e. cattle or sheep).

The CLA 'Profit of Pasturage' agreement

The CLA has a precedent 'Profit of Pasturage' agreement which, if complied with both in the drafting of your agreement and in practice, should in most circumstances enable you to claim that you are farming the land for tax purposes. The agreement also includes the relevant commentary on the BPS.

For further information
please contact:

Tax Department
CLA 16 Belgrave Square
London SW1X 8PQ

020 7235 0511
www.cla.org.uk

Important Information. No responsibility for loss occasioned to any person acting or refraining from action in reliance on or as a result of the material included in or omitted from this publication can be or is accepted by the author(s), the CLA or its officers or trustees or employees or any other persons. © Country Land and Business Association Limited 2021. All rights reserved. No part of this publication may be reproduced or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, or stored in any retrieval system of any nature without prior written permission of the copyright holder except as expressly permitted by law.