CHAPTER 8

AGRICULTURAL PROPERTY RELIEF

8.1 Introduction

IHTA 1984, s. 115

Agricultural property relief (APR) works in a similar way to BPR.

Agricultural property relief reduces the value transferred when assets such as **farmland and farm buildings** are gifted either during lifetime or on death.

APR is given before any available annual exemptions, and is either available at 50% or 100%.

Value transferred	X
Less: **APR @ 50%/100%**	(X)
	X
Less: annual exemptions	(X)
Chargeable transfer	X

If an individual dies and his estate includes agricultural property, APR is also given as a deduction in the estate when calculating death tax. The relief is automatic and no formal claim is required.

8.2 Agricultural property

Agricultural property means either agricultural land or buildings, used for the purposes of farming and situated either in the **UK, the Channel Islands, the Isle of Man or an EEA State.** IHTA 1984, s.115(2) IHTA 1984, s.115(5)

Agricultural property relief is primarily available in **two** situations.

APR is available to a farmer who **owns** the land and buildings **and uses** these assets in his own business.

APR is also available to a **landowner who is letting out agricultural land** or buildings to a farmer. There is no requirement for the landowner to actually farm the land himself in order to qualify for APR.

8.3 "Agricultural Value"

APR is given as a percentage (50% or 100%) of the "agricultural value" of the land. The agricultural value of the land will be different from the market value or development value. IHTA 1984, s.115(3)

As a general rule, land is worth more if it is capable of being developed rather than if its use has been restricted to agricultural purposes only. The agricultural value is **the value of the land assuming it can only be used for farming purposes** – i.e., assuming any development of that land is prohibited by law.

"Market value" or "development value" of land transferred	X
Less: APR = "Agricultural value" x 50% / 100%	(X)
	X
Less: annual exemptions	(X)
Chargeable transfer	X

The agricultural value of the land will be given to you in the question. In practice, you will need to seek the advice of a local Land Agent or Land Valuer.

8.4 50% or 100%?

IHTA 1984, s. 116

There is only **one instance** when APR is given at a rate of **50%.**

For the 50% rate of APR to apply, the agricultural land must be **"tenanted".** This means that the donor is letting the land to a farmer who is using it for agricultural purposes.

Where land is let by a landowner to a farmer, there must be a lease giving the farmer a legal right of occupation. For the 50% rate to apply, this lease must have been **signed before 1 September 1995.**

Finally the lease must **have at least 2 years left to run** at the date that the land is transferred. The legislation tells us that the donor must not be able to take "vacant possession" of the land within 2 years. i.e.

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$$\left.\begin{array}{ll}\text{(i)} & \text{Tenanted land; and}\\ \text{(ii)} & \text{Pre 1.9.95 lease; and}\\ \text{(iii)} & \text{Lease has > 2 years left to run at date of transfer}\end{array}\right\}\ \text{50\% APR}$$

If all three of these conditions apply, APR is given at a rate of 50% of the agricultural value. If **any of the above conditions do not apply**, APR is available at **100%** of the agricultural value.

Therefore the 100% rate will apply to non-tenanted land – i.e. land which is owned and farmed by the farmer himself. APR will also be available at 100% if there is tenanted land, but the lease is signed on or after 1 September 1995. APR is given also at 100% if, at the date the land is gifted, the lease will come to an end within two years. If the owner can take the land with vacant possession within 2 years, APR is given at 100%.

Illustration 1

Lord Muck (a wealthy landowner), owns 25 acres of farmland. He lets out the farmland to Farmer Giles on a 30 year lease which was signed on 1 January 1993. In March 2011, Lord Muck gifted the 25 acres of farmland into a discretionary trust. The land was worth £500,000 at the date of the transfer and had an agricultural value of £400,000.

The market value or the development value is the amount which Lord Muck could sell the land for to the highest bidder on the open market. This is our starting point.

As the property transferred is land used for agricultural purposes, the transfer can be reduced by APR. In this instance, the APR will be the agricultural value of the land multiplied by 50%.

The 50% rate applies because the land is tenanted, the lease was signed before September 1995, and at the point of the transfer (March 2010) the lease has more than two years to run. Here Farmer Giles' lease will not expire until January 2023.

	£
Market/development value	500,000
Less: APR	
£400,000 x 50%	(200,000)
	£300,000

The APR reduces the transfer of value leaving Lord Muck with a chargeable lifetime transfer – ignoring annual exemptions – of £300,000.

8.5 Other points

To qualify for APR, the agricultural property must have been occupied by the transferor for the purposes of agriculture throughout the **2 years** prior to the transfer. IHTA 1984, s.117(a)

In the case of **tenanted land**, this minimum ownership requirement is extended to **seven years**. There are occasional exceptions to the minimum two or seven year rule. IHTA 1984, s. 117(b)

As is the case for BPR, if agricultural land is sold and **replaced** with new land, the new land will qualify for agricultural property relief provided that the **combined period** of ownership exceeds **two out of the last five** years. In the case of **tenanted** land, this is extended to **seven out of the last ten** years. IHTA 1984, s.118

The BPR rule which allows ownership periods to be aggregated where property passes from one spouse to another on death, similarly applies for APR purposes. IHTA 1984, s.120

If a **farmer runs a farming business,** it is possible that he could receive both **APR and BPR on the same transfer**. If this is the case, **agricultural property relief will be taken in priority** to business property relief.

Illustration 2

A farmer gifts his farming business to a discretionary trust. The business is worth £600,000. APR will be available at 100% of the agricultural value of the land and buildings. The agricultural value is £500,000.

The remaining £100,000 can be extinguished by business property relief, because this will constitute the transfer of a business on which 100% BPR is available.

	£
Value of business	600,000
Less: APR (£500,000 x 100%)	(500,000)
	100,000
Less: BPR @ 100%	(100,000)
Chargeable transfer	Nil

Note that APR is given at 100% because the land is farmed by the owner and is not tenanted.

8.6 APR on shares

IHTA 1984, s. 122

A controlling shareholder can obtain agricultural property relief on a transfer of **shares,** if the **company** concerned **owns agricultural land** and buildings.

The APR will be a percentage of the agricultural value of the land owned by the company. This is particularly useful if business property relief would not be available on a transfer of the shares.

Remember that BPR is only available for transfers of shares in a **trading** company. Therefore if the company is not trading – for example it holds farmland purely for investment purposes in order to yield rental income – BPR will be denied.

Illustration 3

Jethro owns all of the shares of Arable Ltd.

Arable Ltd owns two plots of land. It owns 1,000 acres of land in Wiltshire, which is let to a horse racing trainer. The company also owns 2,000 acres of land in Somerset, which is let to a local farmer on a long lease. The lease was signed many years ago.

Arable Ltd is not a trading company as its income consists wholly of rental income. The land in Wiltshire has a market value of £500,000, whilst the farmland in Somerset is valued at £800,000. This farmland has an agricultural value of £600,000.

In March 2011 Jethro gives his shares in Arable Ltd to his daughter when they are worth £1.3 million. We will consider whether APR is available to reduce this transfer of value.

The loss to Jethro's estate as a result of the transfer of shares is £1.3 million. As this is a gift of shares in a company which owns farmland, APR will be available. APR is available at 50% of the agricultural value of the land which is let to the farmer. APR can only be given in respect of the 2,000 acres of land in Somerset as this is the only piece of land use for farming purposes.

We use the 50% rate because the land is tenanted, the lease was signed before 1995 and has many years to run.

	£
Value of shares gifted	1,300,000
Less: APR	
50% x agricultural value of land let	
to farmer (50% x £600,000)	(300,000)
Transfer of value (PET)	1,000,000

The APR is 50% of the agricultural value of the land, - i.e. 50% of £600,000. The transfer of shares will therefore qualify for £300,000 of APR, giving a transfer of value of £1 million.

Note in this example that no BPR will be available as Arable Limited is not a trading company. In broad terms, a company is trading if its main source of income is chargeable to tax as trading income. This is not the case for Arable Ltd.

8.7 Additional note – APR on farmhouses

Agricultural property also includes farmhouses and farm cottages and the land occupied with them as long as they are "of a character appropriate to the property". Farmhouses will qualify for APR provided that:

- the farm is essentially an agricultural unit incorporating an appropriate dwelling house; and

- it is normal for land to have a dwelling of this type within it.

The CTO will question the availability of APR on farmhouses where (say) the family business is small and occupies a small area of land and the farmhouse is valuable. To qualify for APR the farmhouse must be of a size and character commensurate with the scale of the farming operation.

Example 1

Rhys owns 50 acres of land in South Wales which he bought in 1992. Since 1994 the land has been let to a local farmer. The lease is due for renewal on 30 November 2011.

In February 2011, Rhys gave 25 acres of the land to a discretionary trust. The land had a market value of £5,000 per acre and an agricultural value of £4,000 per acre.

Calculate Rhys' transfer of value (ignoring exemptions)

Answer 1

	£
Value transferred =	
25 acres @ £5,000	125,000
Less: APR on agricultural value	
100% x 25 acres x £4,000	(100,000)
Transfer of value	**£25,000**

1. Tenanted land
2. Pre 1995 Lease

But

3. Lease < 2 years to run at date of gift

100% APR