

Agricultural Property Relief (APR) and Business Property Relief (BPR) reduce the value of an asset by either 50% or 100% for Inheritance Tax purposes. Therefore if an asset qualifies for 100% relief it could be tax free.

What assets qualify for APR?

Provided strict conditions are met, the following assets qualify for the relief:

- Agricultural land or pasture
- Woodland
- Farm buildings
- Farm cottages
- Farmhouses

How do you get 100% relief?

You should get the maximum rate of relief if:

- You have the right to vacant possession at the date of your death (and the date of the gift, if appropriate).
- You could have obtained vacant possession within the next 12 months.
- If the land is let, you could have obtained it within the next 24 months.
- If you cannot obtain vacant possession within these timescales then the rate of relief is 50%. The remaining 50% will be caught within the Inheritance Tax net.

What are the conditions for obtaining APR?

The general rule is that the property must have been used for agricultural purposes:

- either by you for the last 2 years; or
- by somebody else for the last 7 years; and
- You have not entered into a contract agreeing to sell the property.

What are the common problem areas with APR?

The statements made above sound deceptively simple. These are just some of the issues that can arise in relation to APR:

- Farmhouses need to satisfy a number of further tests. For example, is it occupied by the person who is involved in farming on a day-to-day basis? Is it proportionate to the size and nature of the farming activities? Does it look like a farmhouse? Fine houses with “a bit of land” do not tend to qualify.



- APR reduces only the “agricultural value” of an asset. Therefore if the land has any development value, mineral rights, or is used for sporting purposes such as shooting, the full value of the property may not be covered by the relief. Can you structure the business so that non-agricultural elements are covered by BPR?
- A significant proportion of a farmhouse’s value tends to be non-agricultural value because it is also used as a home.
- Does your agreement with the farmer, or occupier of the land, allow you to obtain the highest rate of relief? If not, can the agreement be changed to ensure you obtain vacant possession within the required time scale?
- Does your partnership agreement adversely affect the rate of relief?
- Is the land being used for “agricultural purposes” acceptable to HMRC? For example, land cultivated for horticulture, forestry or used to graze horses is not accepted as “agricultural purposes”.

What assets qualify for BPR and what are the rates of relief?

Provided strict conditions are met, the following assets qualify for BPR:

- Sole-trading business
- Share in a partnership
- Unquoted shares
- Shares or securities in a quoted company that give control to the owner
- Land, buildings, plant or machinery used in your partnership or company you control

Sole trading businesses, shares in a partnership and unquoted shares qualify for 100% - the rest qualify for 50% relief.

What are the Conditions for obtaining BPR?

- The business must be mainly a trading business.
- The general rule is that the asset must have been held for two years.
- The asset must not be subject to a binding contract for sale.

What are the common problem areas with BPR?

HMRC may try to refuse or restrict the amount of the relief:

- If the business deals mainly with securities, stocks, land, buildings or investments it is unlikely to qualify for BPR. Even if part of the business is trading, relief on the whole of the business may be lost. Advice should be taken on how to structure your affairs so that relief on the trading activities is protected.
- On the other hand, if the business is mainly a trading business that carries on a small amount of investment activity, with careful planning it may be possible to claim relief on the whole of the business, including the value attributable to the investment activities.
- Can the assets used by the business that you own personally, be transferred to that business? If so, the rate of relief increases from 50% to 100%. Do you want to transfer the assets, but keep their value in your estate?
- Does the business hold any assets which have not been used for business purposes during the last two years? Unless the asset is required for the future use of the business, the amount of the relief may be restricted.

- Does the partnership agreement “accidentally” include a contract for sale? If so, the claim for the relief will fail. Say, for example, the agreement states that the Personal Representatives of a deceased partner must sell his or her share to the surviving partners and they must buy the deceased’s share, this is a contract for sale. The claim for relief would fail.
- Are business activities taking place? How can you prove sufficient levels of activity are taking place? Do your documents support the conclusion that a business is being run or do they look more like tenancy agreements?
- Mortgages or charges on the business assets reduce the amount of the relief.

Summary

The rules relating to the reliefs are not straightforward. There are further issues relating to lifetime gifts and replacement property you may need to consider. However, with careful planning you may be able to give your agricultural and business assets to your chosen beneficiaries tax-free - whether that is during your lifetime or through your will. If it cannot be done tax-free, then you may be able to use the reliefs to reduce the overall tax liability significantly. HMRC examine claims for APR and BPR very carefully so your paperwork must be in good order. Before taking any action you need to take advice on all of the tax consequences. Any steps you take may have Capital Gains Tax and/or Stamp Duty Land Tax implications.

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