
INHERITANCE TAX: EXTENSION OF AGRICULTURAL PROPERTY AND WOODLANDS RELIEFS TO LAND IN THE EUROPEAN ECONOMIC AREA

Who is likely to be affected?

1. Executors and personal representatives of people who have died, individuals and trustees.

General description of the measure

2. Legislation will be introduced in Finance Bill 2009 to extend inheritance tax (IHT) agricultural property relief (APR) and woodlands relief (WR) to property in the European Economic Area (EEA). Property qualifying for this extended IHT relief will also qualify for capital gains tax (CGT) hold over relief.

Operative date

3. The extension of APR and WR against IHT and CGT hold over relief will have effect on and after 22 April 2009 as well as for earlier events as described in paragraphs 5, 8 and 10 below.

Current law and proposed revisions

4. APR reduces the value of agricultural property chargeable to IHT. Before 22 April 2009 APR was restricted to property in the United Kingdom, the Channel Islands or the Isle of Man. Finance Bill 2009 will extend relief to agricultural property in EEA states.
5. IHT due or paid on or after 23 April 2003 in relation to agricultural property located in an EEA state at the time of the chargeable event will become eligible for relief. Finance Bill 2009 will provide that the earliest deadline for reclaiming overpayments on such property will be 21 April 2010.

6. The 'Review of Powers, Deterrents and Safeguards' work to align time limits will mean that the statutory time limit for making a claim for repayment of overpaid IHT will reduce from six years to four. This will affect repayment claims for overpayments where IHT has been paid and APR is now available. However, the new time limits will not apply to claims made before 1 April 2011.
7. Where conditions are met, WR allows IHT to be deferred on the value of timber or underwood until it is sold. Before 22 April 2009, WR could only apply in respect of land located in the United Kingdom. Finance Bill 2009 will extend WR to property in other qualifying EEA states.
8. For deaths before 22 April 2009, property located within an EEA state will become eligible for WR. The time limit for obtaining WR is usually within two years of the date of death. Finance Bill 2009 will provide that the earliest deadline for reclaiming overpayments on such property will be 21 April 2010.
9. Hold over relief allows deferral of a CGT charge (on a gift or sale at undervalue of a business asset) until the asset is disposed of by the recipient. Finance Bill 2009 will extend hold over relief to agricultural property in EEA states which has been farmed by a person other than the owner.
10. Hold over relief will also become available in respect of disposals of agricultural property located in a qualifying EEA state in the past. The time limit for claiming hold over relief is five years from 31 January following the tax year to which the claim relates. Claims to relief in respect of the tax year 2003-04 can therefore be made until 31 January 2010.
11. Legislation in Finance Act 2008 will reduce time limits for hold over relief claims to four years from 1 April 2010. Claims in respect of 2004-05 and 2005-06 will need to be made by this date.

Further advice

12. If you have any questions about these changes, please contact the Inheritance Tax & Probate Helpline on 0845 3020 900. Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk