NFUScotland

BRIEFING PAPER: FARMING UNIONS' ALTERNATIVE APPROACH TO THE UK GOVERNMENT'S PROPOSED INHERITANCE TAX (IHT) CHANGES

Summary

Given the significant risks to farm businesses, investment and our food security embedded in changes to Agricultural Property Relief (APR) and Business Property Relief (BPR) announced in the Budget on 30 October 2024[1], NFU Scotland has repeatedly asked the Treasury to pause, re-think and consult fully on alternative approaches that can generated required tax revenue without dismantling productive family farms across the UK.

In particular, we – together with the other farming unions – are proposing an alternative approach to the planned reforms to APR and BPR. **This is the so-called 'clawback' mechanism**.

This Briefing sets out how this approach can deliver on the UK Government's objectives whilst ensuring working, productive farm businesses can be passed on to following generations – giving confidence and certainty to those investing in UK and Scottish agriculture and all that it delivers.

We are proposing the government introduces an alternative approach to APR and BPR reform, described as 'clawback', and which allows 100 per cent relief on qualifying assets, but charges IHT on all those assets if subsequently sold by the beneficiary within a suggested timeframe of seven years.

Background

Since the Budget in October, we have consistently acknowledged the UK Government's policy objectives around generating tax revenue to invest in public services.

In addition, given the risks and flaws in their proposed approach, we have constantly looked to engage with the Treasury to consider alternative options for reforming IHT reliefs.

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[1] See Annex 1 below

In particular, we are seeking a solution that:

- Meets the UK Government's aims of raising revenue
- Avoids penalising elderly farm owners, risks breaking up family farms, and stifles investment in food production and environmental stewardship
- Takes away the incentive to use APR and BPR solely as a way of avoiding tax

We envisage the best way of meeting these aims is by introducing a 'clawback' mechanism. This approach has been developed and informed through the analysis and thinking undertaken by a range of likeminded stakeholders and industry experts, including Jeremy Moody from CAAV.

The Clawback Approach in Practice

Using a clawback, IHT would only apply to qualifying assets (those currently eligible for both APR and BPR) if they are disposed of within a seven-year period after death. As a result, tax would be paid only when the finance is available to do so - keeping to the sound and fair principles of taxation.

Applying a clawback would maintain the ongoing day-to-day operations of farm businesses after a death whilst also disincentivising the use of IHT reliefs as a tax avoidance measure.

Importantly, it would still allow the Exchequer to raise the revenue it needs. The revenue this approach will raise for government will depend on the rate of IHT applied to qualifying assets on disposal and the amount of any tax-free threshold.

This approach would significantly reduce the number of family farm businesses at risk of being broken up on the death of an owner – and specifically where there is a desire, as in the vast majority of cases, for the farm to continue to produce food while delivering a host of wider economic, environmental and social outcomes – which are critical to governments' ambitions.

This approach also disincentivises the purchasing of agricultural land simply as a way of minimising IHT liabilities.

The clawback option could work as follows

1. No initial charge on death for assets qualifying for APR, BPR or both.

2. Full clawback of relief on a sale (or partial relief on partial sale) of the qualifying business or assets within a period of seven years (unless the qualifying asset is replaced with another qualifying asset).
3. Full or partial clawback where the business or assets cease to be used for a purpose which qualified for either APR or BPR within a period of seven years (again, unless the qualifying asset is replaced with another qualifying asset).
4. The level of government revenues will depend on any tax-free threshold, the rate of IHT charged, and the potential to taper the clawback within the 7-year period.

Impact on HM Treasury Tax Revenues

Initial modelling has shown that between £422 million and £686 million in tax revenue could be raised, with a central estimate of £554 million – which is 7 per cent more than the Treasury's estimates of the tax revenues likely to be raised by its Budget proposals.

Further modelling of various scenarios relating to the clawback is required and we are urging the Treasury to work with us in developing the clawback option as a very credible and worthwhile alternative which would generate tax revenues and safeguard inter-generational family farm businesses.

While we believe that the clawback option addresses these specific concerns, we also remain open to constructive and positive engagement and discussion of all and any alternative proposals.

It is vital that UK Government engages with the farming sector related independent experts to examine the policy options available to avoid the potentially catastrophic consequences of the current IHT proposals.

Annex 1 – The Potential Implications of the Budget's IHT Proposals

In the Budget on 30 October 2024, the Chancellor announced that from April 2026 full relief would apply up to £1 million with 50 per cent relief thereafter for both APR and BPR combined.

The Budget stated that the £1 million threshold is “to help protect family businesses and farms”. However, much independent analysis provides evidence that the proportion of genuine commercial family farms affected will be considerable – many estimating that over three-quarters of working farms are likely to fall above the £1 million threshold.

As a result, the Budget’s IHT proposals would not only lead to very real personal hardship but also immediately removes the existing rationale for IHT reliefs, such as APR and BPR, which were introduced to prevent the economic harm from the sale or break up of businesses or farms to finance IHT payments.

NFU Scotland has consistently pointed out the numerous, highly damaging implications of this policy, which include

- undermining farm business investment
- reducing farm profitability
- reducing the land available for tenancies and new entrants
- eroding domestic food production and our food security
- ending multi-generational family farms
- bringing enormous emotional stress to hard-working people and their families

NFU Scotland

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