

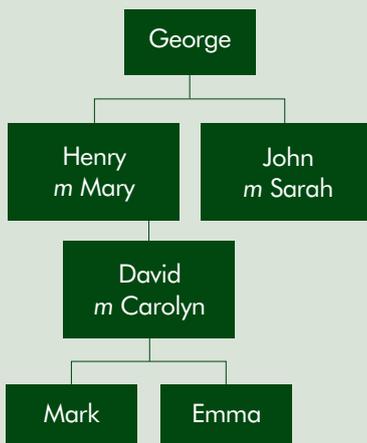
LIFE *on the* FARM

DEDICATED NEWS AND SUPPORT FOR FARMING FAMILY BUSINESSES FROM ENSORS CHARTERED ACCOUNTANTS



Meet the Barleymow family

Every issue we will be following the fortunes of the Barleymow family and the issues they face as a family farming business.



Barleymow Farm – 2500 acres.
A farming partnership consisting of Grandfather (George), father and wife (Henry and Mary), son (David) and his wife.

500 acres owned by Henry (son of George) 250 acres owned by John (son of George) and his wife Sarah and let to partnership under AHA tenancy.

100 acres owned by George and let on AHA.

One principle farmhouse owned by George.

Two further cottages occupied by Henry & Mary, David & Carolyn and their children Mark and Emma.

Four further cottages rented out by Mary and Henry to one current farm worker, one ex-service tenant and two AST lets.

EPISODE 8

PARTNERSHIPS APR BPR

Henry, Mary, David and George are all enjoying a sandwich and a cup of tea around the farmhouse table. Mary rifles through her bag and produces a letter...

Mary: So, now that we're all together, we need to talk about this letter from Ensors... about APR and BPR.

George (tuts): What on earth does that all stand for?

Mary: It's Agricultural Property Relief (APR) and Business Property Relief (BPR) and...

George (goes to stand up): Afraid I haven't got time for all this right now, some of us have work to do...

Henry (motions George to sit down): No Dad! Mary's right. Now that everything has settled down with the development sale, we really do need to look at this partnership agreement. Loads has changed on the farm and it all needs sorting...

George (grumbles): I know we've sold land and bought it and that all needs updating but, for heaven's sake, what else is there to do? I have other things to be getting on with...

David (rifles through notebook): They're right Grandad, I'm sure I had some notes about this from when Dad and I last met with Ensors. They said a while back that we needed to look into it all.

Mary (puts glasses on, reads from letter): It will make it clear to all involved how the partnership operates and avoid using the old 1890 Partnership Act rules.

George yawns.

Mary (raises eye at George): AND they say it can really help to reduce Inheritance Tax by obtaining APR and BPR on our assets...

George (sheepish): Ah, right.

Henry: The solicitor spoke about this when they prepared the original agreement, don't you remember?

George: Now you come to mention it...

Henry: There's a difference between how APR and BPR works... can you remind us, Mary?

Continued overleaf ▶

Mary: Well, it says here that both can help to reduce the value of your taxable estate when you die. So assets that are used in the farm are not subject to the 40% Inheritance Tax charge.

George (smiles): Well that's easy then – it's all used in the farm, so nothing will be taxed at 40% when I go. Job done!

Mary: I'm not sure, as the letter says that APR only covers the agricultural value and you must have owned and used the asset for two years or rented it out for seven. And you must be able to get vacant possession in 24 months... if you can't, then you only get 50% APR. Plus if there is any more development potential, which is also known as 'hope value,' then this would not be covered by APR.

David (points at letter): What about the BPR, Mum – does that help?

Mary (reads through): Well, Ensors say that BPR does cover the development value BUT to get the full 100% relief, the asset must be a partnership asset. If it is just used by the partnership and owned by a partner for at least two years, then you only get 50% relief.

Henry: That's right! It's all coming back to me now. If we have any land that has this 'hope value' then we need to get it as a partnership asset if we want to get the full BPR. But, if we are going to sell it soon then we need to have a good think. Look what happened when we sold the land for

housing development? We got Entrepreneurs Relief on that because it wasn't a partnership asset!

David: But we've sold all our development land now. Hopefully some will come up again but not for another 20 years I reckon.

Henry: Yes but we still have some bits that might be worth more than agricultural value. I think we need to get at least all of these treated as partnership assets.

George: And what about your homes? Have you thought about them? They are worth a few quid.

Mary: The letter from Ensors talks about these. They say that APR will cover an element of the "Farmhouse" as long as it is used as a farmhouse by the working farmer. It also says that the house must be; "in keeping with the land farmed by the business." This means the size of the house must be sensible when compared to the land farmed, including the land we rent in.

David: Well, all the meetings here and records are held here in your house. So I guess that makes this the farmhouse. So what about Grandad and I?

Henry: I do recall Ensors saying it's possible to have more than one farmhouse qualifying for APR in certain circumstances and they offered to advise on how this might apply to us.

Mary: Excellent! And we'll need to think about the old cottages as well... we rent those out and I know they won't be covered by either APR or BPR on their own. There'd be a lot of tax due on these. Ensors said that if these were made partnership assets that they would be covered by BPR, meaning no Inheritance Tax would be due on them.

George: How's that?

Mary: Because though they are not used in a trade they could qualify for BPR when you look at the overall business that we have here. There are certain conditions that need to be met.

Henry (thinking): So... the key is not to put too many assets that are not used in the farming trade into the partnership as it will make it an investment business and no BPR will be available on anything. Ensors said we need to speak with them before doing anything like that to make sure it still stacks up.

They all nod.

George: So what are we waiting for? We need to get a meeting arranged with Ensors... No time like the present!

Henry, Mary and David all grin.

George: What's so funny?

David (raises eyebrow): Good idea there, Grandad. I'll go ring them now!





“MAKING HAY” PROPERTY USED FOR HORSES

As farmers turn their thoughts over the winter months to how they might look to “Brexit proof” their businesses, many will no doubt consider generating income from the equestrian world, whether this be letting of land for horse grazing, hay-making, livery, riding schools or cross-country courses.

If the thinking becomes a serious consideration it is important that proper advice is sought from tax advisors to ensure that where at all possible capital tax advantages are not jeopardised by the decisions taken or that, if tax reliefs are lost, the effect is fully understood and minimised.

Despite the Department of the Environment seemingly encouraging farming businesses to consider their income earning opportunities in the future, HMRC seem to be taking an active interest as to the impact of such diversification on the capital tax reliefs that are available. This includes restricting the availability of Agricultural Property Relief (APR) for Inheritance Tax (IHT) purposes to land that is occupied for horse grazing as well as examining the availability of another IHT relief, Business Property Relief (BPR) for certain equestrian ventures, particularly the provision of liveries.

The occupation of land by horses that are used for domestic riding, eventing etc is not

considered occupation for the purposes of agriculture and could lead to a loss of Agricultural Property Relief on the value of the land. However, land occupied by working farm horses and horses used in the food chain should still qualify.

It is a widely held belief by the average layman that the production of hay is a farming activity irrespective of whether the hay is to be consumed by livestock that will enter the food chain or by domestic horses and that therefore the availability of APR is not an issue. It is understood that HMRC, however, are not taking the same approach for land used to grow hay specifically to feed domestic horses and will only allow the relief where hay is used for the “breeding and rearing of horses”. Clearly this is a contentious area and in many cases hay is sold by a farmer without any knowledge of the ultimate usage and on face value this should not prevent a claim for APR, however where land is clearly only being used for production of hay that will be used to feed domestic horses, such as

grassland attached to a livery business, the availability of APR may be in doubt.

The provision of liveries could also affect the availability of IHT reliefs. The occupation of stables by horses will not be considered a use for the purposes of agriculture and therefore the buildings containing the stables and ancillary feed stores, tack rooms etc and the grassland used for grazing the horses will not therefore qualify for APR. Where the liveries and grazing are let to third parties and there are few, if any services provided by the landowning farmer, it is also unlikely that the properties would, in their own right, qualify for Business Property Relief (BPR) and would only qualify for this relief providing other conditions are met having regard to the wider business activities of the landowning farmer. Even where services are provided, HMRC may look for evidence that the services are sufficient to warrant a BPR claim rather than just ancillary services that would be expected in a landlord and tenant relationship.

MEET THE TEAM

Agriculture specialists



Graham Page

PARTNER

01284 722300

graham.page@ensors.co.uk



Carl Page

PARTNER

01728 603005

carl.page@ensors.co.uk



Neil Meekings

PARTNER

01284 722300

neil.meekings@ensors.co.uk



Jonathan Wingfield

DIRECTOR

01728 603005

jonathan.wingfield@ensors.co.uk



Elaine Baxter

FARMING GROUP
MANAGER

01284 722326

elaine.baxter@ensors.co.uk



Hugh Simpson

CLIENT MANAGER

01284 722300

hugh.simpson@ensors.co.uk



Wayne Horrex

CLIENT MANAGER

01284 722327

wayne.horrex@ensors.co.uk

Technical specialists



Danny Clifford

CAPITAL TAXES &
TRUSTS PARTNER

01473 220083

danny.clifford@ensors.co.uk



Helen Carey

VAT DIRECTOR

020 7830 9669

helen.carey@ensors.co.uk



Fiona Hotston Moore

FORENSIC ACCOUNTING
PARTNER

01473 220034

fiona.hotstonmoore@ensors.co.uk

@EnsorsAccounts @EnsorsBizTax @EnsorsAgri @ForensicsAcct

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UPCOMING EVENTS

Agricultural tax breakfasts

Join us for breakfast and an update on agricultural tax. This winter we will be hosting two breakfast seminars with our resident tax experts to provide you with an update on current tax matters and how they affect the agricultural sector. The details are as follows:

Date: Tuesday 11 December 2018

Venue: All Saints Hotel,
Bury St Edmunds, IP28 6JQ

Timings: 7.30am – 9.45am

Date: Thursday 7 February 2019

Venue: Ufford Park, Woodbridge,
IP12 1QW

Timings: 7.30am – 9.45am

For more information or to book your place please visit our website www.ensors.co.uk/agricultural-breakfasts or contact Kristie Henry at: kristie.henry@ensors.co.uk or call 01473 220090.

Farming breakfasts

We are hosting our annual farming breakfasts at The Cedars Hotel, Stowmarket in conjunction with Lloyds Bank Agricultural Team in early 2019. The series of breakfasts, held in January, February and March are aimed specifically at the farming community and begin with a full English breakfast before the talks commence.

Further information will be available in due course via www.ensors.co.uk/farming-breakfasts19/