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## Client Briefing Note

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### Good News on Agricultural Property Relief

Following a spate of tax cases in recent years surrounding Inheritance Tax Agricultural Property Relief (APR), which have resulted in the scope of the relief being restricted in respect of certain types of assets, there have been two positive developments recently in connection with the relief which would be good news to many farmers and land owners.

Firstly, a shadow has been hanging over APR as the restriction in the relief which meant it was not available in respect of overseas farmland, was considered to be discriminatory from a European law perspective. There was concern among some commentators that this may result in further restrictions in the relief being introduced in the budget on 22<sup>nd</sup> April 2009. Fortunately however, it was announced in the budget that the relief will be extended to agricultural property in European Economic Area states. Woodlands Relief and Capital Gains Tax gift relief have been similarly extended.

Also, following recent amendments to agricultural land laws, some landlords may be able to improve their APR rate.

Tenancy agreements which commenced after 1<sup>st</sup> September 1995 are eligible for a maximum 100% rate of APR however for tenancies granted before that date APR is generally restricted to 50% and this can often give rise to Inheritance Tax liabilities on the death of the landlord.

Previously, attempts to improve the rate of APR surrounded replacing the old tenancy with a new farm business tenancy but many tenants were reluctant to do this because their security of tenure was likely to be less under the old tenancy.

Due to recent changes in Agricultural land law it is now possible for a landlord to grant a new replacement tenancy to an existing tenant and this presents an opportunity as the new tenancy can effectively be identical, in terms of security, rights of succession etc, thus providing the landlord with the possibility of obtaining 100% relief.

If there are additional non tax reasons for updating a tenancy, this would do no harm at all and would reinforce the claim to increased APR.

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