A fair win

Beneficiaries who feel that the value placed on the deceased's estate at death by HM Revenue & Customs is not fair should be heartened by the decision in *Chadwick*. **Julie Butler** explains what the decision could mean for their advisers

A recent case heard before the Lands Chamber, *Linda Frances Chadwick and another (Hobart's Executors) v CRC*, was won by the taxpayer. This result gives hope to those who recognise the importance of fighting for genuine market value figures for property valued at date of death for inheritance tax (IHT) purposes, in good faith and with strong research.

The current regime of penalties for inaccuracies in documents and returns was introduced by schedule 24 to the Finance Act 2007, setting out the use of graduated financial penalties based on the behaviour of the taxpayer and the corresponding error resulting in the inaccuracy. This schedule came into force on 1 April 2008. Section 40 of the Finance Act 2008 extended the behaviour-based penalty regime introduced by schedule 24 to IHT from 1 April 2009.

HM Revenue & Customs (HMRC) is known to look very carefully at differences in valuation, which is understandable given the scope for beneficiaries making unfair valuations in an attempt to benefit themselves. This could include under-valuations when there are no IHT reliefs available, or over-valuations when there are reliefs available (giving the beneficiary as high a base cost as possible for calculating capital gains on future disposals).

However, since the introduction of this regime, there are many who have seen a much more aggressive approach taken by the HMRC, than seems to be outlined by the legislation. This is highlighted by the facts of *Chadwick*, in which the executors of a will disputed HMRC's valuation of the deceased's property.

THE FACTS OF THE CASE

Shortly after the deceased died, the executors obtained valuations from two local estate agents, both of whom valued it at £250,000. The property was subsequently refurbished and was then used as a holiday home. More than a year later – and after the refurbishment – HMRC visited the property and proposed a value of £300,000. The appellants sent HMRC a detailed report in support of their valuation, in light of which the inspector said he would compromise at £275,000. The taxpayers appealed against this valuation and were forced to go to a tribunal.

The tribunal judge noted that the deceased had bought the property privately, rather than on the open market. Thus, the purchase price, which was £268,450, did not conform to the definition of market value at section 160 of the Inheritance Tax Act 1984, and should not have been taken into account by HMRC in arriving at its valuation.

The judge decided to use sales of similar properties, also used by HMRC, to reach a conclusion. The more expensive of these was in a different village from the property under appeal, which made a comparison more difficult; however, the sales of two other properties led the judge to agree with the taxpayers' valuation of £250,000. The taxpayers' appeal was allowed.

With this victory for the taxpayer, the IHT at stake must have been £10,000. The calculation is £275,000 - £250,000 = £25,000 @ 40% = £10,000. There are many who might consider that this was a relatively low amount of tax over which to stand firm and debate the matter at Lands Tribunal.

LESSONS TO LEARN

As well as representing a victory for the calculation of fair market value, the case highlights a number of issues of interest to beneficiaries and their advisers.

First, the case reveals the importance of encouraging the district valuer to visit as soon after death as possible, and ensuring that there is evidence, both written and photographic, of the state of the property at the date of death, and of any subsequent refurbishments.

The case shows that it can be worth fighting any valuation decision even if the tax saving is not enormous and there may seem to be an 'easier' option

Second, the case shows that it can be worth fighting any valuation decision, where there are valid arguments and good evidence has been obtained, even if the tax saving is not enormous and there may seem to be an 'easier' or less stressful option. Where there is more than one dispute on an estate, such as for farms and estates where there is a dispute over the value of the property and eligibility for business property relief on some property included in the estate (such as let property, hope value and buildings used for non-agricultural purposes), HMRC may offer a 'deal' of a payment of IHT to settle the case. Sometimes, executors and beneficiaries who are involved in the decision-making are exhausted or confused or simply just wanting to 'move on' and to be able to close the case and use the property. It is fair to say that they are often very vulnerable, and a deal may appear an easy solution; however, *Chadwick* shows that it is not always the most beneficial one. ■

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