



**IHT**

## **216. BPR ON DIY LIVERIES**

Following close on the heels of the tribunal cases of *Pawson (HMRC v Lockyer & Anor (as personal representatives of Pawson dec'd)* [2013] UKUT 50 (TCC)) and *Green (A C Curtis Green v HMRC TCO4427)* which deny

inheritance tax relief on the provision of holiday accommodation, HMRC has been challenging the status of 'DIY liveries' and business property relief (BPR) eligibility.

HMRC's approach (in line with the judgement in *Pawson*) has been to look at the DIY livery trade as a "letting" business, saying that the business falls on the "investment side" of the "spectrum" and the trade therefore does not qualify for BPR unless substantial services can be proved.

The confusion perhaps rests with the use of the term 'DIY' in the context of the keeper of the horses (the owner of the yard) who still has liabilities under the Animals Act 1971 and there are also a large number of services provided by the owner of the yard (the livery operator). Such services provided by the livery operator include pasture management, being on call 24 hours a day, overview of the horses, hay-making and provision of hay, advising novice owners, removal of the muck heap and arranging and assigning paddocks to prevent fighting among the horses (and their owners!).

HMRC tries to argue that the services described above are incidental to the letting. There are many ironies to this approach, not least the fact that many farmers were actively encouraged by the government to diversify into trades such as holiday accommodation and liveries and are now being denied tax relief. The livery trade has generally been correctly reported on the self-employed pages of tax returns without query, often for several decades.

Comparisons to *McCall (CA(NI) 2009, 79 TC 758)* by HMRC are also flawed in that the trade of livery with the need to manage a multitude of owners and a range of horse types cannot be compared to a grazing

agreement with one farmer and one herd of cattle. The holidaymaker comparison of *Pawson* is defective, as generally such holidaymakers want to escape any assistance and be on their own, whereas horse owners look for and need services, company, and people to be with the horses when the owners are stuck in their own work environment.

**Contributed by Julie Butler, Butler & Co**