

IHT

041. Consultation on planning law reform

In addition to the new Agriculture Act 2020, which received Royal Assent on 11 November, there are also changes ahead for planning potentials for farmers. The government's consultation on planning law reform proposes the biggest change to the UK planning system in over 70 years. The Town and Country Planning Act 1947 forms the basis of the current planning system. With so much uncertainty regarding COVID-19 recovery and lockdown together with the recouping of government finances through fiscal measures, there is a current certainty that the 'hope value' for inheritance tax (IHT) of gardens, pony paddocks, barns and fields near planning sites will be 'low lying fruit' for tax collection.

The cases of *Palliser (Palliser v HMRC [2018] UKUT 0071 (LC))* and *Foster (Foster v Revenue and Customs Commissioners [2019] UKUT 251 (LC))* establish the principle of the need to include 'hope value' for probate purposes. When considering farming probate valuations, it is possible with correct tax planning for 'hope value' to be protected by 100% business property relief, however, for small areas of land, such as gardens and paddocks used for pleasure, there is no such relief. With COVID-19 changing working arrangements and an increase in the current passion for large gardens and 'pleasure' paddocks there is the possibility of increased development and the current beneficial CGT rates of 20%, however, the possible large 'downside' of the potential IHT bill resulting from the probate valuation should not be ignored. In addition to the points raised above, there is also the review of CGT by the Office of Tax Simplification, which proposes many changes for the tax adviser to consider.

There will be much debate as to the quantum of the professional assessment of 'hope value' and the possible tax reliefs available by tax advisers and HMRC alike. Farmers will be part of the housing delivery and decision-making will involve 'hope value' as well as uncertainty around the future of farming and CGT rates. All tax planning around farm succession and taking advantage of development opportunities needs careful review and updating against this very uncertain background.

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