

## Inheritance Tax

### 51. Furnished holiday lettings

It is important that clients who own holiday cottages should try and ensure, as far as possible, that they qualify for inheritance tax (IHT) relief. With property prices appearing to be permanently on the increase, the need to shelter these assets from inheritance tax is greater than ever.

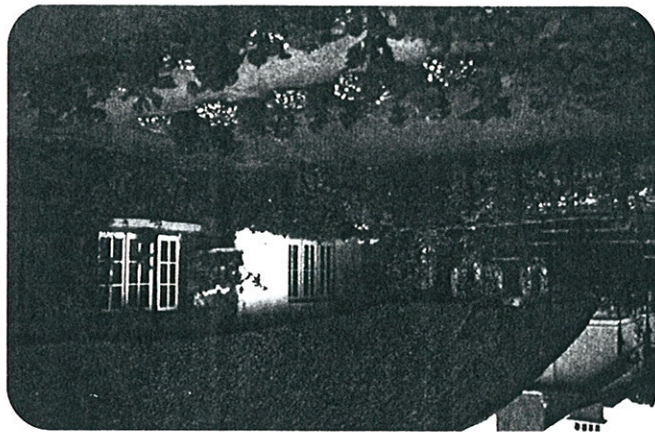
Case law suggests that in order to qualify for business property relief, it will be necessary to own a number of properties. However, it will also be necessary to be actively involved in running the properties. The CTO Advanced Instruction Manual (at paragraph L.99.3) states:

The Inland Revenue Solicitor has advised the office that in some instances the distinction between a business of furnished holiday lettings and, say, a business running an hotel or a motel may be so minimal that the Courts would not regard such a business as one of 'wholly or mainly holding investments' for the purposes of s. 105(3):

- You should therefore normally allow relief where:
  - the lettings are short term (for example, weekly or fortnightly); and
  - the owner – either himself or through an agent such as a relative or housekeeper – were substantially involved with the holidaymaker(s) in terms of their activities on and from the premises even if the lettings were for part of the year only.

As usual, whether this test will be satisfied will depend upon the facts.

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



and some small part of it reclaimed. The College took the view that it was making a taxable (albeit zero-rated) supply when it distributed the prospectuses, free of charge, and that it was therefore entitled to full recovery of the input tax incurred in respect of the prospectus. Customs disagreed with this view. The tribunal agreed with the College, and Customs appealed to the High Court. The arguments for the College, based on paragraph 5 of Schedule 4 to the VATA 1994, were as follows:

- the brochures amounted to goods which formed assets of the business;
- when those goods were given away they were transferred or disposed of so as no longer to form part of those assets, which in principle gave rise to a taxable supply of the brochures (paragraph 5(1));
- Paragraph 5(2) prevents a supply from being considered to take place where the cost of the goods is less than £50. However, this does not apply if the gift forms part of a 'succession or series' of gifts made to the same person from time to time. The tribunal had found that, because the prospectuses were mainly distributed to various households, offices, etc. and via free advertising papers, libraries and careers services, they were mainly distributed as part of a succession or series of gifts to the same person(s); and
- Paragraph 5(5) says that there is, in any case, no deemed supply if the supplier is not entitled to at least some input tax recovery in respect of the goods concerned.

The High Court upheld the tribunal decision and therefore the College's claim to recover the related input tax succeeded. Some of the points raised were of concern to me over 15 years ago, when there was talk of the zero-rating for printed matter being abolished. This caused particular head scratching among the publishers of free newspapers, with Customs indicating that they thought that the free deliveries to the same households each week amounted to a series or succession of gifts which would give rise to an output tax liability. That problem went away, but may appear again at some stage. The free newspaper providers might like to get a copy of the West Herts College judgment and file it away for future reference.

*Contributed by Chris Allen. This article first appeared in Allen's VAT News, published by Croner CCH.*