

Stud Farms – Can They Obtain Inheritance Tax Relief?

By Julie Butler

HM Revenue and Customs have at last produced greater guidance on the Stud Farm and the qualification thereof for Agricultural Property Relief for Inheritance Tax (IHT).

Chapter 24 of the HMRC IHT Manual (IHTM) sets out the taxman's understanding of the stud qualification for Agricultural Property Relief.

Stud Farms

The legislation provides that, for the purposes of agricultural relief, agriculture may be taken to include the breeding and rearing of horses on a stud farm and the grazing of horses in connection with those activities, and any buildings used in connection with those activities which may be regarded as farm buildings.

With any other horses, there will need to be a link with agricultural use, for example, where horses are used as draught animals on a working farm, the grazing of such horses will constitute agricultural use. This will also be the case where the horses being grazed are declared to be part of the food chain under the horse passport scheme introduced at the end of November 2003. The grazing of horses used for leisure pursuits will not constitute occupation for agricultural purposes.

Where horses are grazed in connection with, for example, a livery **business run by the deceased/transferor**, business relief for inheritance tax may apply in the alternative.

It is noted with interest that HMRC note that the stud farm is defined in Act and, guess what, "relief will not be available for a rich man's hobby which is not carried on for gain". Perhaps that's the starting point – the "C" word – commerciality. There must be gain and the easiest way of proving this is a profit in the Accounts – the stud must be commercial.

An important point is the "details of advertising and publicity for the stud, plus full particular of sales". Perhaps, in fact, that

is the first starting point – there must be sales and advertising.

A client I acted for said with genuine respect and love of her horses "I don't sell my horses in the same way I don't sell my friends." It is difficult to establish a business with no sales...

Clearly there must at some point be:

- Proof of profit potential
- Sales
- Advertising

Precise Nature of the Trading Activity

The claim for APR will come under scrutiny for "precise" nature of the business.

HMRC are capable of accessing the racing and particular breed websites for stock performance, "google earth" for location and google for the name of the owner, stud and image which will provide HMRC of a very clear picture within a few minutes. It must be remembered that the huge availability of independent information is available to HMRC.

Quotes by well meaning stud owners to Horse & Hound correspondent (not necessarily as adorable and uninformed as Hugh Grant in Notting Hill) of "we breed for fun", "we bought the stud as an investment", "our horses are our family and we hate to part with them", "we turned down £x million because it cannot all be about profit" might reappear and be quoted by the taxman.

Commerciality and "purpose of gain" are essential for inheritance tax reliefs to be achieved. There are vast sums to be saved and so the running of the operation for profit should be implemented accordingly.

There are a vast number of commercial, well-run, professional studs and the perception by HMRC of a "rich man's hobby which is not carried on for gain" can be difficult to move away from.