

The draft guidance emphasises that 'only the individual taxpayer for whom the request for a ruling was made may rely on it'. Accordingly it will not be safe to assume that a ruling given to one client will protect another client in similar circumstances. Indeed, Customs emphasise that even associated companies must apply for individual rulings (though a simplified application procedure may be available).

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## Inheritance Tax

### 250. Tax planning for farmhouses after the *Higginson and Antrobus* cases

With property prices rising and the commerciality of farms dropping, the claim for agricultural property relief (APR) for Inheritance Tax (IHT) becomes more and more important. Two recent cases, which had very different outcomes, have set out useful guidelines in relation to the 'character appropriate' test for APR on farmhouses.

So what is eligible under section 115(2) IHTA 1984? In *Higginson Executors v IRC* SpC 337, Mr Higginson had purchased a property in 1954. The house was an old hunting lodge and was grand in design. He lived there farming the surrounding land himself with the assistance of three full-time workers until 1985 after which the farmland was let. The Inland Revenue denied relief for the house on the grounds that it was not of 'an appropriate character'. The executors claimed that it had been acquired by the deceased for the purpose of running the property as an active farm and that had been the purpose for many years. The executors claimed it was a self-sufficient agricultural holding and the enjoyment of the property was not separable from the land.

It was apparent from the sales price that the house predominated the estate and the purchase price would have been 'an appalling investment in terms of yield from that farm'. The Special Commissioner decided that the farmhouse must be 'ancillary' to the land. It was a house with farmland going with it and not vice versa; it could not therefore be a farmhouse within the meaning of section 115(2), IHTA 1984. This case will be of great significance for the current trend of 'non-farming' buyers of agricultural property, assuming it is not overturned on appeal. The fact that the land was let from 1985 highlights the particular APR problems when there is a large house with let land. Often, a taxpayer with a capital gain to rollover and IHT to protect will be looking for a country estate which is essentially a house with land and not a working commercial unit. Although IHT relief should be achieved on the land and buildings provided the conditions are met, there could be loss of IHT relief on the farmhouse.

However in the case of *Lloyds TSB (Personal Representative of Antrobus Deceased) v IRC* SpC 336 there was a victory for the taxpayer with a large farmhouse with a relatively small amount of land and buildings. The Inland Revenue claimed that this was not a farmhouse of a character appropriate to the agricultural

land which formed part of the estate. This looks like a difficult argument because the property had been purchased in 1907 and it had been farmed ever since. There was expert evidence that the farm had been a working farm and there were 27 comparable houses and holdings in the locality. It was agreed that the house was a farmhouse and the issue was whether it was of a character appropriate to the 126 acres of farmland. The Special Commissioner, Dr Brice reviewed the earlier cases and deduced five tests to be applied for the purpose of the 'character' test. None of these tests are new but they do provide a useful summary of the key factors at play in such cases:

- 1) *Is the house appropriate by reference to its size, content and layout, with the farm buildings and the particular land being farmed?* She accepted the accountant's evidence that the deceased had been a farmer in every sense of the word and that in her lifetime the house had been a 'working farm building' and not a 'family home of distinction'. The evidence of the 'comparables' suggested that it was comparable in size and layout to many other farmhouses with a similar holding of land.
- 2) *Is it proportionate in size and nature to the requirements of the farming activities conducted on the land in question?* The Commissioner accepted that the business had not been financially successful in recent years but accepted the accountant's evidence that this was true of many farmers. The comparables supported the view that there were many similar sized farmhouses on holdings of similar extent and activities.
- 3) *Does it meet the so-called elephant test, ie although it is difficult to describe a farmhouse, you know one when you see it?* Here she accepted the valuer's evidence that the house was of an appropriate character.
- 4) *Would the 'educated rural layman' describe the property as a house with land, or as a farm?* (Otherwise described as the 'man on the rural omnibus'). The Commissioner accepted the witnesses's evidence and that of photographs that at the date of death, the whole use and visual presentation of the property, especially the siting of the farmyard and the modern buildings within the line of view of the frontage, supported the view that such an observer would describe the property as a farmhouse with a farm and not a house with land.
- 5) *The historical dimension – how long has the house been associated with the land in question and has there been a history of agricultural production?* This house had been associated with the land in question since at least 1902, when the predecessor of Miss Antrobus's father had bought the identical holding, and had been farmed by the same family since 1907.

The commissioner therefore concluded that the house was of a character appropriate to the agricultural land in question and thus that APR was due on it at the relevant date.

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