Tax protection of the "pony paddocks"

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Posted [June 16, 2020]
In [Tax]

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It could be argued that it is the dream of a large number of people to own a paddock next to their house, however there are currently a large number of tax considerations.

Main Residence Relief

Only half a hectare of grounds or character appropriate will qualify for Main Residence Relief for CGT. When buying the house with a paddock(s), it is essential to have a split in value between the house and the land for the future calculation of Main Residence Relief. Likewise, when selling the property, the split will be needed as there will be CGT payable on the paddocks, stables, barn, i.e. any area that is not the house and garden. The potential gain will impact on the new residential CGT Return from 6 April 2020 and what needs to be disclosed. Details of the original purchase and improvements to the paddocks and barns need to be kept in order to calculate the gain.

CGT on disposal of the paddocks

The current rate of CGT on the gain will be 20% unless the land was used for a business in which case Rollover Relief can be claimed. Alternatively, Business Asset Disposal Relief (BADR) can be claimed if the conditions are met and 10% CGT paid. A large number of people have a misapprehension with regard to CGT and they assume "it is where I live so no tax to pay".

Income Tax on paddock income

There could be income from horse liveries, a grazing licence or the paddock could be let for events such as parties, weddings etc. All such income should be declared. The importance of the declaration of this income to the tax authorities can be seen above so beneficial CGT rates are claimed, but also under Covid-19 to ensure SEISS (Self-Employed Income Support Scheme) is claimed where this income is lost due to Covid-19 disruption.

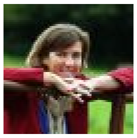
Inheritance Tax (IHT)

The declaration of the income can also have an advantage for IHT. Grazing income can qualify for APR (Agricultural Property Relief) and assets used in a business can qualify for BPR (Business Property Relief). Some advisers do forget that small paddocks do qualify.

Stamp Duty Land Tax (SDLT)

The pony paddock used for business could ensure that the purchaser can apply the "mixed use" rate of SDLT. Such use has come under attack by HMRC in a number of tribunals, e.g. *Dr David Hyman and another v HMRC* [2019] UKFTT 469 (TC), *Pensfold v HMRC* [2020] UKFTT 116 (TC) and *Myles-Till v HMRC* [2020] UKFTT 127 (TC). It is important to show that the pony paddock had a business use at the time of purchase; <u>or,</u> that business plans were in place from the time of purchase.

It is very easy for the taxpayer to forget the paddock when they sell and for tax advisers to omit to provide warnings of both the tax advantages and disadvantages.



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