FARMING GROUP News
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THE CASE OF DIXON - DOES IT GIVE US DIRECTION?

With the increase in property values together with more and more properties being sold with small parcels of land to increase their value, the case of Dixon v IR Commissioners (2001) SPC 297 gives an interesting ruling.

In this case of agricultural property relief (APR) was denied on the basis that the cottage was not of a type and character appropriate to agricultural land. In actual fact the opposite was the case. The orchard and garden were of a character appropriate to the cottage which in truth was a private residence in a rural area and could be regarded by a lay person as a residential cottage with land.

Although there has been some agricultural activity on the land it was not enough to encourage the Revenue to allow APR in respect of the cottage, garden and orchard on the grounds. Sheep had been allowed to graze on the land and from time to time fruit from the orchard was sold for money. The owner of a neighbouring property grew vegetables and fruit commercially and would pick fruit in the orchard and sell it with his own fruit. The sale proceeds were about £70 per year. A farmer had at times been allowed to graze sheep on the land and in return his wife carried out general household duties for the deceased. The price received for the fruit had not been included in income tax returns and this is an important point.

The principle appears to be that the purpose of APR was not to provide relief for private residence and gardens but to relieve land and pasture use for agriculture. The decision indicates that it is not simply enough for a person to buy an attractive cottage in the country, keep some form of livestock there and try and avoid inheritance tax on the value of the property. It is essential that the property is first of all truly used for agricultural purposes and then relief should also apply to any cottages and farm buildings occupied with the land as long as they are of a character appropriate to the property.

Nevertheless the case does give practitioners some practical tax planning points. Firstly, if there is income it should be recorded on the tax return and secondly, if such a valuable claim as APR is to be made it is essential to ensure that the case is more valid and the conditions are adhered to a far greater extent. Many practitioners are aware of clients who are virtually inventing agricultural activities around some small plot of land in the hope of obtaining APR which can be extremely substantial.

It is worthwhile to note that the period of business activity in order to obtain the APR is for two years. It must also be noted that in order to claim APR for a farm business tenancy the period of ownership is seven years. Therefore, anybody moving to the country with a view to obtaining inheritance tax relief on a large chunk of their assets must carefully look at the structure on which they trade.

This case has not only shown the need to ensure that the correct conditions are in place. If a new landowner wants to take it further and actually have a neighbour farm their land with the use of a farm business tenancy (FBT), they must be aware of the fact that the FBT is a much slower route to agricultural property relief, i.e. seven years instead of two. A serious planning point with regard to this relief is to always look at the farming activity with a view to the landowner farming it themselves or using contract or share farming agreements for the first two years and then taking the route of the sometimes easier FBT once the conditions for agricultural property relief have been established.

It must also be noted that whilst an FBT will allow the farmer APR on the land generally the asset does not qualify for the business relief available in respect of capital gains tax, e.g. rollover relief and business taper relief and likewise where there has been no trading activity as such, just a farm business tenancy, the APR will only apply to the land and not to the farmhouse in the majority of cases.

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WHEN IS A CAR A VAN?

An individual who uses a van provided by his employer in his employment is at a considerable tax advantage, in that the maximum benefit taxable will be £500. Also there is no fuel charge. There is evidence that clients are deliberately seeking to exploit this advantage.

Various attempts have been made over the years to minimise the tax charge on certain vehicles by converting them into vans. This has worked up to an extent in that, if an estate car had its rear seats removed and the windows filled in with metal panels and effectively used to carry the tools of the trade, the vehicle has been considered to be a van.