Dying with your boots on

HM Revenue and Customs (HMRC) are increasingly challenging Inheritance Tax claims for Agricultural Property Relief (APR). In order to qualify the farmhouse needs to be of a character appropriate given the size and nature of the farming activities and must be occupied for the purposes of agriculture. APR is only ever given on the agricultural value of the farmhouse.

In the case of HMRC v Atkinson and another, the deceased had resided in a care home for several years before his death. HMRC denied APR on his bungalow which had remained uninhabited for the period he was in care. In order for the bungalow to have been occupied for the purposes of agriculture once Mr Atkinson had gone into the care home, there needed to be some connection between the use of the bungalow and the activities on the rest of the farm.

If you find yourself in this situation you should consider moving someone else connected with the farming activities into the unoccupied property, such as a family member who is a partner in the business or a farm manager. Farm meetings should continue to be held in the farmhouse and should be documented and photographs taken to show that the house does continue to be a working farmhouse.

When the owner passes away, make sure that the death certificate says farmer (avoid the term retired farmer). Make sure any obituaries or tributes refer to the deceased's faming background. What has actually happened in the years leading up to death is key; the deceased's presence at farm meetings, photographs of them working on the farm, showing animals at local shows and attending farming clubs and local agricultural society meetings will all help to support a case for APR.

Take advice early from professional advisors who have experience dealing with agricultural clients. If you have concerns do not hesitate to contact one of the members of our rural team.

If you would like any help or advice on Agricultural Property Relief, please contact our rural department on farm@sheen-stickland.co.uk

Living Together Agreements

One of the questions we frequently get asked about is regarding one of the younger members of the farming partnership living with their partner in one of the farm cottages and the best way to protect the cottage in the event that they split up.

We recommend having a “Living Together Agreement”. This is a written document recording arrangements between two or more people who have agreed to live together.

A Living Together Agreement must be in writing and entered into freely. It is always best to seek legal advice. The document should include ownership shares in any property, division of household expenses, details of any financial support one party is giving to another, who is the beneficiary of any insurance or pensions and the split of any contents and personal possessions.

For further advice contact your legal advisor or a member of our rural team and we can put you in touch with a legal advisor.

SAVE THE DATE

ALRESFORD SHOW
1st SEPTEMBER 2018

TICHBORNE PARK, ALRESFORD
9am to 6pm

We are looking forward to exhibiting at Alresford Show again this year. Why not join us on our stand for a refreshment and a chat?

What is it you do?

In the recent case of The Estate of Maureen W Vigne (Deceased) v HMRC (TC06068), HMRC sought to disallow Business Property Relief (BPR) for Inheritance Tax on a livery business.

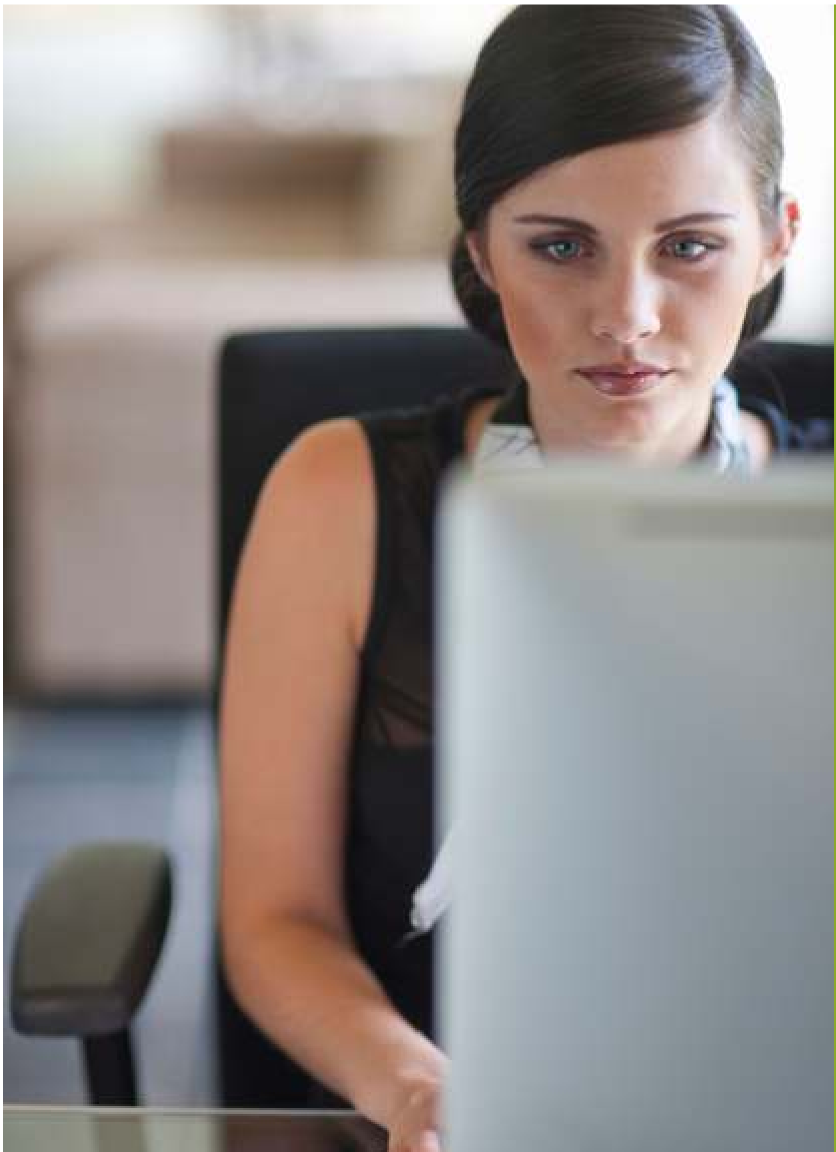
HMRC held that the land owner was letting the land for the use of others as a DIY livery and that there was insufficient business activity for a claim for BPR to be allowed and that the land was held as "investment in land".

However, as the livery business was offering other services such as checking the horses, worming, muck picking etc. it was clear to the judge at the First Tier Tax Tribunal that a business was being carried out on the land and that to "the man in the street" who was not aware of the distinction between "investment in land" and other business for IHT purposes it did look and feel like a business. BPR was therefore allowed.

This shows the importance of documenting what it is that your business actually does and making sure that your sales invoices and accounts clearly describe all of your business activities. You need to be able to "paint a picture" of your business to ensure that BPR can be achieved.

It is essential that any grazing, livery or other agreements reflect what is happening on the ground.

If you would like any help or advice on how to organise your accounts to ensure you receive Business Property Relief, please contact our rural department on farm@sheen-stickland.co.uk



Are you ready for Making Tax Digital?

As we have previously reported, from 1 April 2019 all VAT registered businesses with turnover above the VAT threshold (currently £85,000) will need to keep records digitally and to send VAT information to HMRC using third party software.

The existing HMRC on-line portal will continue to be available to all other businesses that complete a VAT return but have turnover below the VAT threshold.

We have been liaising with the software providers for the most popular accounting packages who have assured us they are ready for Making Tax Digital (MTD). A number of early adopters are testing HMRC systems at present by submitting their records using the software.

If you are still using manual accounting records or are concerned that your software may not be compliant please get in touch with one of the team as soon as possible. You may be pleasantly surprised by some of the computerised options available to you.

For an overview of the options available, please contact our rural department on farm@sheen-stickland.co.uk

It should show the right to a share of the profit and losses, the responsibilities of each partner, procedures for changes in partners and for the termination of the partnership.

It should also include a note of the capital contribution made by each partner which should be reflected in the accounts. Whether the land being farmed is a partnership asset depends on what the partners have agreed. Land held in the partnership should be registered in the name of all the partners or a declaration of trust should be drawn up stating that the partner is holding it on behalf of the partnership.

The individual partners' Wills should dovetail with the Partnership Agreement, as for example, you cannot give away land in your Will if you are stating that it is a partnership asset.

Wills and Partnership Agreements should be reviewed regularly to ensure they still reflect the needs and wishes of the partners.

We will work with you and your legal advisors to draw up a Partnership Agreement and Wills which reflect your wishes and deal with the issues that are important to you. If you would like to discuss this further please do not hesitate to get in touch with one of the team.

Give us a call to find out how we can help or please contact our rural department on farm@sheen-stickland.co.uk

Whose land is it anyway?

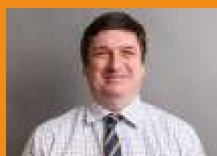
Who owns the land that is being farmed by your partnership? This may seem an obvious question but over time various parcels of land may have been inherited by various members of the partnership, the partnership may have bought odd parcels of land adjoining the existing holding or a mother or wife may have owned a few acres in their own right, which on marriage became farmed by the partnership.

Cases such as Ham and Bell (2016) show the difficulty of trying to establish if property belongs to the partnership or an individual partner retrospectively. Make a list of all of the property you farm in the partnership and try to remember how it was acquired. If it was inherited do you have a note of the value at probate? If it has been purchased do you have a copy of the completion statement which will show what you paid for it?

Obtain copies of the land registry entries for the various parcels of land and ensure that all of the land you think you own is actually registered. Look especially at tracks and paths.

Once you have established the facts of who owns what, you need to ensure that all of this information is documented in your Partnership Agreement and reflected in the partnership accounts. We always advise that a partnership does have an agreement for the avoidance of doubt and conflict. In the absence of a partnership agreement the rules set out in the 1890 Partnership Act will apply.

Our team



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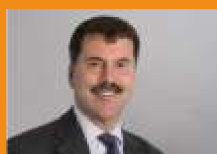

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