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Client Briefing Note

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Inheritance Tax on Furnished Holiday Lets Update

A landmark case regarding whether Inheritance Tax Relief (IHT) is available for properties let as furnished holiday accommodation reached its final conclusion in October when the executors of the late Mrs Pawson were refused leave to apply to the Court of Appeal. Unfortunately this is not good news for holiday let business owners.

IHT is chargeable on a person's estate when they die and can also be payable on trusts or gifts made during someone's lifetime. The rate tax on death is normally 40 per cent on amounts over the Nil Rate Band (currently £325,000). Business Property Relief (BPR) can provide relief from IHT at rates of up to 100% and can be available to businesses which do not consist of 'wholly or mainly' holding investments.

Whether a holiday let business is an investment business or not has in recent times been unclear. HMRC generally accepted that this activity qualified for relief but then changed their guidance, in late 2008, when they announced that they had been advised that their previous practice was incorrect in law and they stated that they intended to litigate a suitable test case on the subject.

The Pawson case was heard following this, where HMRC argued that the holiday let was an investment and did not qualify for relief. The executors held that due to the effort involved in the business it was not a passive investment business.

The First Tier Tribunal agreed with the taxpayer but this decision was then overturned by a High Court judge sitting in the Upper Tier Tribunal. The executors are now unable to appeal this decision.

The case concerned a single property and only basic additional services were provided to holidaymakers. The property was furnished and equipped with a telephone and television. Additional services such as cleaning between lettings, gardening, heating, hot water and a welcome pack were provided to holidaymakers. The level of services provided is likely to be at the lower end of the norm for most modern holiday lettings.

As the level of services was not high in this instance, it is not conclusive that a greater business activity will fail to attract relief. Those owners who are keen to reduce exposure to IHT on their estate may wish to review the level of services they provide. The services do not necessarily have to be provided by the owner personally.

Alternatively, if the holiday letting business is structured as part of a wider business it may be able to qualify for relief if the composite business is not a business of 'wholly or mainly holding investments'.

It may be beneficial for owners to review their circumstances and take appropriate steps to protect their estate. Our tax department can provide support in all aspects of tax planning. If you require further information please telephone Mairi Drummond on 01573 224391 or email mairi.drummond@renniewelch.co.uk.

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