

LANDED ESTATES: APR/BPR

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BPR and APR

- APR has priority: IHTA 1984, s. 114
 - agricultural value of agricultural property
 - agricultural land
 - cottages and farmhouses of character appropriate to property
 - occupied for purposes of agriculture

- BPR
 - relevant business property
 - interest in a business/unquoted shares in company
 - owning agricultural property
 - assets used for purposes of business

INTERACTION OF BPR and APR

- APR on agricultural value of land
 - BPR on development value
- APR on agricultural value of farmhouse, farm cottages
 - BPR on premium value if used for purposes of business
- BPR not APR on let cottages
 - not occupied for purposes of agriculture
 - if part of predominantly trading business
- BPR on assets other than land and buildings
- BPR on minority shareholding in farming company
 - IHTA 1984, s. 122
- APR on freehold reversion to let land

BPR AND LANDED ESTATE

- Mixed landed estate
 - farming activities
 - forestry
 - commercial shooting parties
 - hydro-electric plant/wind farm
 - let cottages on ASTs
 - farmhouse with office

- BPR if single business not mainly one of holding investments
 - IHTA 1984, s. 105(3)
 - 50% + non-investment

TESTS: HMRC v Brander [2010] STC 2666

□ Context

- perspective of intelligent businessman “in the round”
 - preponderance of business activities and efforts
 - not putting each activity into trading or investment bag
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- Acreage/use of land (equal)
 - Turnover/net profit (mainly trading)
 - Capital values (investment: 1.88:1)
 - Time spent (trading; 79%: 22%)
 - Time must be justifiable: Clark v HMRC [2005] WTLR 1465)
 - Unitary landed estate: mainly farming, forestry, woodland

TRADING ACTIVITIES

- Farming in-hand
- Sporting activities
 - even if little income
 - vermin control
- Hydro-electric plant
 - maintained and managed
 - income from generation of electricity
 - not letting

LETTINGS

- Let properties surplus to farming requirements
 - Brander: investment, but subsidiary part of predominantly trading business
 - even though capital value much greater than trading stock
 - long-term policy to retain land
- Farmer v IRC [1999] STC (SCD) 321
 - net letting profit exceeded farming profit
 - small area
 - historical connection with farm
 - short leases consistent with non-investment



APR AND LET PROPERTY

- 100% not 50% APR where (IHTA 1984, s. 116(2); ESC F17):
 - right to vacant possession within 24 months
 - value of freehold broadly equivalent to vacant possession value
 - tenancy beginning on or after 1 Sept 1995

- No right to vacant possession within 24 months
 - Tenancy under AHA 1986

- Value of freehold not = vacant possession value
 - unless transferor and tenant closely connected
 - transferor controls farming company

LODGE/FARMHOUSE

- Lodge used for:
 - holiday lets
 - shooting parties
 - 24-hour occupation by farm manager during lambing season
 - farm office
- Need to provide “extra services” to guests
 - cooking/cleaning etc
 - B&B or hotel-like enterprise not investment
 - not excepted asset
 - small part occupied by farm office
 - rest a B&B forming minor part of business

CONVERSION OF TENANCY

- Surrender and re-grant of AHA 1986 tenancy
 - AHA 1986, s. 4(1)(g)
 - AHA 1986 applies to re-granted tenancy if written contract indicating that AHA 1986 applies
 - new tenancy will begin on or after 1 Sept 1995
 - 100% relief on freehold reversion
- No CGT charge on surrender by tenant (ESC D39)
 - if terms of new tenancy equivalent to those between unconnected parties at arm's length and
 - terms of new tenancy not different from old (other than duration and rent)
- No SDLT charge on surrender and re-grant
 - FA 2003, Sch. 17A, para. 16
 - unless tenant a company connected with landlord (FA 2003, s. 53(1))



LIABILITIES

- Liabilities incurred directly or indirectly
- To finance acquisition of relievable property or
 - to enhance or maintain value of such property
- Set first against value of relievable property before relief
- Relief only on excess value
- Even if borrowing secured against other assets, e.g. house
- IHTA 1984, s. 162B

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