

UK Agricultural Property and Woodlands Relief under review?

05 FEBRUARY 2009

CATEGORY:
ARTICLE

Historically, agricultural property and woodlands reliefs from UK inheritance tax (IHT) have only ever applied to property in the UK, the Channel Islands and the Isle of Man. There is no such restriction for business property relief from IHT, which is available whether the business is carried on inside or outside of the UK.

The European Commission's request would go some way to addressing the anomaly that has long existed between agricultural and business property reliefs. The request echoes similar moves that have been made in respect of other tax reliefs that have territorial limits, most recently the decision of the European Court in the case of *Hein Persche v Finanzamt L—denscheid* (European Court of Justice, C318/07) where the ECJ held that EU citizens should be able to claim tax relief on donations to charities established in any other EU Member State, not just their home jurisdiction.

If the reliefs are extended, it may encourage British farmers to invest in European agricultural land and woodlands. The bigger question is whether farmers in the UK will want to extend their farming operations to Europe where the greater distance will necessarily affect day to day management and farming methods may be very different. In order to qualify for agricultural property relief the farmer may need to demonstrate that he is actually farming the land. Contract farming and farm business tenancy arrangements in the UK may not be adaptable to the European way of doing things.

It should be noted that agricultural property relief only applies to the agricultural value of the land and not, for example, to amenity or development value. Woodlands relief is also a misnomer and is actually only a deferral of the tax. For these reasons, British farmers have for some time been structuring their UK farming operations to qualify for business property relief, which is available on the full value of the property without any of these restrictions. Similarly, British farmers looking to invest in European farms have also always been able to secure relief from inheritance tax by ensuring that those farms are structured as businesses. It therefore remains to be seen whether the European Commission's request will have any significant impact, particularly for UK farmers who have relied on business property relief rather than agricultural property relief.

Any change will however remove a significant distortion from the market, and afford UK farmers the flexibility to broaden their farming portfolios where previously there was no IHT incentive to do so.

There has been no suggestion that these moves will lead to an abolition of the existing reliefs and given that the amount of IHT that is raised from the taxation of European farms held by UK domiciliaries is likely to be extremely limited (as business property relief is available in any event) these reliefs could be extended at little cost to the Exchequer. Accordingly it is hoped that the Government will respond positively to the Commission's request, especially given the detrimental effect that the withdrawal of the reliefs would have on the agricultural sector at a time when all parts of the economy are feeling the effects of the global recession.

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