



## Private Client Law Bulletin

## Inheritance Tax Relief and Landed Estates

A recent case in the Tax Tribunal is positive news for owners of landed estates with a range of business activities. In *HMRC v Brander (Executor of the Will of the Late Fourth Earl of Balfour)* the tribunal confirmed that 100% Inheritance Tax Business Property Relief (BPR) was available on a single business that comprised both farming and estate management.

The details of the case and the ownership of the business are complex but Lord Balfour's estate consisted of in-hand farms, let farms, woodland, sporting rights, let houses and cottages and business premises. For administrative reasons the accounts for the lettings and the farming had been kept separate.

For BPR to apply to a trading business, in this case farming, the taxpayer must have owned that business for at least 2 years prior to the date of death or transfer. However, the relief will not apply if that business consists "wholly or mainly of...making or holding investments" (wording taken from the legislation). This is an all or nothing test so that, if the business is deemed to be predominantly investment based, the relief will not apply at all. This has often lead estate owners to strip out the investment assets and hold them outside of the business to avoid jeopardising the valuable relief on the trading activity.

Where there are mixed activities within the business, the first hurdle in claiming the relief is to show that they are all run as one single business. Secondly, it is necessary to show that within that business, it is the trading and not the investment that is the dominant activity.

This case provided a useful summary of the current law but it is clear that each situation must be looked at on its particular facts to decide on the relative importance of the investment and non investment activity.

It was significant that Lord Balfour was involved in all of the farming and property letting business and both were managed for the benefit of the estate as a whole. Although a considerable part of the income was derived from the let cottages, this did not preclude the relief because Lord Balfour chose tenants who contributed to the estate, demonstrating that the letting business was part of the overall management of the estate.

The decision does not mark a fundamental change in the principles but it does clarify the position and perhaps indicate a relaxation of the interpretation of BPR where the claim is made on mixed landed estates.

If you require any specific advice in connection with the material contained in this bulletin, or on any other Private Client issues, please contact: Duncan Bailey in Liverpool on 0151 600 3451, Richard Bate in Manchester on 0161 836 8840 or Stephen Marriott in Preston on 01772 229 816.

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