



Disposal of Mixed Use Premises

Introduction

If you are considering selling a property which is dual purpose, for example a hotel and attached flat, you should take note of the recent case of *IS and LA Jeffries v HM Revenue & Customs*.

This case has highlighted an anomaly in the way Business Asset Taper Relief (and presumably now Entrepreneurs' Relief) may be allocated to dual purpose premises which have been sold.



HM Revenue & Customs Case

In this case the private residence was agreed at 65% of the building, with the hotel portion agreed at 35%.

One would think therefore that the Business Asset Taper Relief provisions (and associated lower 10% tax rate) would be applied to the 35% hotel portion of the gain arising on the disposal of the premises, with the private residence being exempt.

However a strict interpretation of the relevant provisions, as favoured by HM Revenue & Customs, would have resulted in the 35% that was chargeable being split again 65:35 with only that 35% being eligible for Business Asset Taper Relief. This was clearly a disappointing method of calculation for the taxpayer.



The Court's Ruling



However, the court found that because the provisions were couched in terms of a just and reasonable basis of apportionment for a mixed use asset, that the proportion eligible for Business Asset Taper Relief was the 35% arising from the original apportionment, despite HM Revenue and Customs view and the strict Interpretation being as stated above.

In other words common sense has prevailed and resulted in a larger proportion of the gain being eligible for the lower tax rate due to the operation of the Business Asset Taper Relief provisions.

Tax Reliefs

The Entrepreneurs' Relief provisions, like the Business Asset Taper Relief provisions they replaced, also reduce the rate of capital gains tax to 10% for certain disposals.

Despite Entrepreneurs' Relief being relatively new and untested it is our view that this case is as equally applicable to the new Entrepreneurs' Relief provisions as it was to the Business Asset Taper Relief provisions and represents a victory for both common sense and the taxpayer and is of relevance to the disposal of any mixed use premises.



Further Information

Monahans can assist you with all aspects of Property Tax reliefs. For further advice and assistance our specialist Tax Consultancy Department will be pleased to help. Please contact **Dominic Bourquin** on (01225) 472800 or e-mail dominic.bourquin@monahans.co.uk