

Chattels Fiscal Forum Meeting

23 September 2016 at RICS London

Time 12:00

Attendees:

Jon Bowey of RICS
Claudia Conway of RICS
Charles Cochrane of Cochrane Fine Art
Mike Neill of Bonhams
Michael Parkinson of MacFarlanes
Wendy Phillips of Sotheby's
Clarissa of Sotheby's
Ruth Cornett of Christie's
John Stancliffe of Stancliffe and Glover
Hannah Armstrong of Omnia Art
Sarah Lowther of Omnia Art
Gavin Strang of Lyon & Turnbull
Peter Worthington NAVA

Tony Spindler HMRC
Pat McGurk HMRC
Dave Goulsbra HMRC
Dee Atkin HMRC
Jamil Mohamed HMRC
Susan Huthwaite HMRC

Apologies:

Nigel Sellars of RICS

Introduction:

Tony started off with updating all on the recent HMRC announcement of the restructuring of HMRC. Members were reassured that this does not affect the way they deal with SAV and we will continue as a business with no contact numbers, references changing. Ruth Cornett questioned whether 'Business & Personal Tax in the wider sense' will continue. Concerns were expressed of losing expertise. Tony expressed that the plan going forward is for the business to share their knowledge and communicate at a better level which will give an all-round better service. At the moment this is all new and nothing has been confirmed regarding the lay-out of HMRC, however, SAV will continue and there will be no change for our customers.

Pat followed on giving our members a brief resume about himself having recently becoming the manager of the Chattels team. Pat is the first member of Shares and Assets Valuation (SAV), who has qualified as a full member of RICS, via an assessment and interview process. SAV are keen for all Valuers to become RICS accredited. He also highlighted how Chattels had recently expanded due to taking on 3 Research members looking into work received from HMRCs Fraud Investigation Service (FIS) and he explained the background to what FIS do.

This led on to Tony mentioning SAV are in the process of taking on 4 new trainee 'O's where they will attend a 6 month training course which is then followed by 12 months assessment at the end of which it is hoped they will become RICS accredited.

Trusts and Benefits in Kind:

Jamil gave a presentation on the taxation principles governing offshore Trusts with particular emphasis on works of art (hand-out given). He discussed each slide - 'Income Tax – Section 731 of ITA 2007' was explained and the meaning of this is, along with CGT-S87 TCGA 1992.

Income Tax / CGT = Key Points concerning Benefit Charge set out in s731 of ITA 2007 & s87 of TCGA 1992

Jamil explained that there is no legislative explanation on how a benefit should be valued and he raised the question to gather everyone's thoughts on the point.

Michael commented that this point is not new ground – benefits under a Trust and IHT rental arrangements are exactly the same and we should be consistent.

Wendy agreed – expressing that it can become confusing if 2 different processes take place. Dave wondered if there was a philosophical difference since depending on the trust document the trustees are required to consider the interests of all the beneficiaries whereas for IHT rental arrangements these are very often driven with the aim of reducing the IHT burden solely on the transferor. This could lead to different answers.

Dave and Dee pointed out that this will be covered more at our next point on the agenda.

Chattels Rental Rates:

Tony addressed the concern SAV have with regards to 'Chattel-Rental Rates of 1%'

The rental charge for renting a luxury asset is anywhere between 9-30%, so where does 1% sit?

Dave gave background information into the rental rates which started back in the 70s. SAV do not feel that 1% rental rate is a 'one size fits all'.

It was questioned whether there is any available evidence on the matter of rental agreements?

There were some strong views on this matter. Charles referred to arrangements involving Museums and Galleries which generally involved little or no payment. However, he did say that these were not situations on all fours with the commercial arrangements we were looking for. Others expressed a view that most owners of artwork would welcome a return excess of 1%. From SAVs point of view this will be an ongoing project to look into Rental Rates.

Tony asked Chattels members to provide evidence supporting 1% Rental Rate. This matter will be explored and not disappear. We welcome any input. What avenue to take; e.g. Rates for certain assets, banding of assets with different charges applying are all considerations to be taken into account.

RICS Red Book:

RICS have put together a red book detailing the standards of valuation. Jon from RICS went on to advertise this. It focuses on production of standards for property valuation to protect consumers and the industry to run smoothly. Approach to valuations, do RICS need to be involved? The Chattels team went on to discuss their ideas of what they feel is required in valuations and reporting. Mike questioned whether 'we need a decent quality photograph?'

Should there be standard items on a report? This gave way to many members giving their view that it won't work. From SAVs point it was expressed that a decent report at the beginning can save time in the long run. SAV and RICS both agree that we all would benefit if we were to introduce a level of clarity. Jon wants to advertise these standards.

Jon announced events that are coming up soon. Next event is on 7th October which will be looking at 'Ethics' - could be useful for networking. There is also a Valuation conference looking at personal property which Dee and Dave will be attending on 29th November. These are published on the RICS webpage.

Tony added that SAV will follow RICS standards except where it conflicts with the legislative requirements.

Approach to Valuation:

Mike explained how he approaches valuations and reasoning behind his method of open market valuations explaining that HMRC were under a misconception if they considered due care was not given to valuations for IHT as Valuers were actively looking for valuable items in the hope that the beneficiary would wish to sell through them.

Dave asked all where they get their information from as images particularly of recent works removed from websites. This is becoming an issue for SAV as SAV no longer receive sales catalogues so are now relying on the internet. Many of Chattels members don't have this issue. Artnet and auction houses were suggested. Artnet is used by SAV but images are being moved from the website. This then results in SAV having to ask more questions. It was pointed out that Antiques Trade Gazette do charge a separate monthly fee for the use of their website. Dave and Dee will look into this.

Dee raised the frustration of receiving many valuations where an item is described as 'attributed to' before changing to 'fully attributed to' at a later date usually before sale. This gave way to a discussion on why this could be; time, cost, different experts, information available at the time. SAV also expressed that we would like the description of an item to state whether there is any damage and in the case of jewellery using the 4C's approach.(4C's being: Cut, Colour, Clarity and Carat.)

It was the opinion of many that how far to look into an item is cost driven. Dee said the legislation required the same level information as would be used for a sale. This level would vary according to the value of the item. All agreed that a reasonable description should be provided.

Ruth raised her concern on the matter of 'Sales after valuation date' – query over the value to put forward. Ruth felt that inconsistency is the problem. Tony agreed that there should be an element of consistency. He went on to say if there are any concerns to raise these with himself or Pat.

Ruth asked whether PTVC procedure was still available for Chattels and mentioned the recent withdrawal of ITEPA PTVC. Tony explained SAVs reasoning behind this decision and pointed out that this is explained in the 'William Franklin Article'

Tony confirmed that the EMI service still continues. Ruth checked that we still accept CGT PTVCs, which are still ongoing.

Wendy questioned whether the base date of 31st March 1982 will ever move forward? Tony mentioned that this has recently been brought up in a meeting and as yet we don't know. Strong views on this was that the information is becoming harder to obtain for that date, which in turn becomes time consuming. Tony said he will feed this request back to the SAV director. Will also

make a representation at policy level. As SAV doesn't receive many valuations at that date, it hadn't become an issue, however Chattels members commented that they receive many at that date. Dave expressed surprise at this as the Chattels team see few. Wendy felt it was because of the accuracy of the valuations provided.

Penalties:

Tony wanted to raise awareness on penalties and that HMRC are more robust around them. Pat briefed more about this procedure due to his experience in SAVs Litigation Team. When an impasse is reached and a case goes to the Litigation Team, all previous compromise offers are removed from the table and they start from scratch. A closure notice is issued giving the taxpayer 30 days to appeal. If appealed the case is then prepared for tribunal.

HMRCs reasoning behind this are for cases to be closed earlier. The number of cases going to tribunal since 2012 has risen. Tony mentioned that further information about this practice is advertised on the HMRC website – search for 'disputes'. He went on to say that there is a team called 'Cedars' who will act to try and seek resolution. A mediator for both sides can also be an option and has a success rate of 90% through ADR (Alternative Dispute Resolution).

Tony then went on to discuss penalties and how one Chattels related valuation has penalties running into millions of pounds. Basically saying that if you push the envelope you will receive a penalty and impact can be severe. A Tax Journal report will give you a flavour on this. Penalties are centrally driven and we are being pushed to use them.

'It's all in a name?'

Pat led this discussion since he felt that "Chattels" was an old-fashioned term which few outsiders understood; should the Chattels Team modernise its name? Some light-hearted debate followed, at the end of which the general consensus was that the 'Chattels' name is here to stay.

AOB:

- Mike questioned whether the base level should rise from £500 to £1000 for identifying individual items for IHT – any appetite for that? Dave said that this was ultimately a decision for IHT not SAV but SAV had no objection in principle to raising it. This was briefly mentioned at the 'IHT online digitalisation meeting'. Dee and Dave will find out what is happening there.
- John asked if we could meet face to face when it comes to a dispute resolution. SAV agreed they are happy to meet and happy to travel to London
- Charles questioned whether Brexit could have an impact on chattels values. Ruth felt that Brexit will have an enormous effect on values due to the exchange rate changes.

Action Points:

*Dee and Dave to look into subscription for online 'Antiques Trade Gazette'

*Dee and Dave to find out the outcome on raising the base level from £500 to £1000

*Tony to raise the point about base date 31st March 1982 to our director and make a representation at policy level

