

## Chattels Fiscal Forum Meeting

26 October 2017 at RICS London

Time 13:00

### Attendees:

Hannah Armstrong	Omnia Art
Katie Botelho	QBI Ltd
Charles Cochrane	Cochrane Adams
Ruth Cornett	Christie's
William Gregory	Golding Young
Sarah Lowther	Omnia Art
Greg Meadowcroft	Gurr Johns
Mike Neill	Bonhams
Susan Orringe	Orringe Consulting
Wendy Philips	Sotheby's
John Sibbald	Lyon & Turnbull
John Stancliffe	Stancliffe and Glover
Rhoddy Voremberg	Farrer & Co
Colin Young	NAVA Propertymark

Dee Atkin	Shares and Assets Valuation, HMRC
Karen Cebulski	Shares and Assets Valuation, HMRC
Dave Goulsbra	Shares and Assets Valuation, HMRC
Ciara Murphy	Shares and Assets Valuation, HMRC
Tony Spindler	Shares and Assets Valuation, HMRC

### Apologies:

Pippa Deeley	Pippa Deeley Auctions
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### Introduction:

Tony began by covering the action points that arose from the 2016 meeting:

- HMRC has renewed its subscription for paper copies of 'Antiques Trade Gazette', however the subscription for the digital format has not been renewed at present
- Regarding raising the Inheritance Tax base level for Chattels items from £500 to £1000 – this is not an SAV decision, and Inheritance Tax have indicated there are currently no plans to raise the base level
- Bringing the base date forward from 31<sup>st</sup> March 1982 – again, this is a central policy decision. Tony has raised this question with the relevant team, however the response was that there are no plans to change it at present. Tony offered that he is happy to raise this again if people feel this is appropriate

### **Chattels Rental Rates – The use of 1%:**

Tony addressed the historic acceptance of 1% as a generic rate for Chattels rentals. HMRC has always raised its concerns about this, and feels there is evidence in the market which may lead us to start questioning returns that provide a rate of 1% with insufficient justification for this. HMRC will not be seeking to challenge every return, but will be looking at these rates a little more carefully; we may ask for context and justification for the decision. Each case will be assessed on its own merits.

John Stancliffe asked if challenges will begin to occur in the short term. Tony explained that SAV relies on its HMRC colleagues to refer cases – SAV does not dictate the flow of cases.

Charles offered that rates can be a lot lower than 1% when looking at the market, particularly with licensing arrangements which are somewhat of a dying art. He advised that agents do need guidance about what HMRC may begin to challenge.

Tony replied that with any valuation, the valuer makes a judgment call; this will be the same with rental rates. Decisions shouldn't be wedded to a particular percent; Tony reiterated Mike Fowler's comments from a previous fiscal forum, where he stated he has no sympathy for using nominal rates in valuation.

Rhoddy added that there was a view that rental rates had to be negotiated, and that the "1% rule" was there for advisors' convenience. There should be an arms' length discussion in which the rate is reassessed, with the principles of valuation taken into account.

Charles asked if HMRC can agree not to challenge returns on this basis until this time next year – Tony replied that if the occasion arises and HMRC is in a position to challenge a return, then we should do. We cannot provide assurance that we won't challenge a case; each case is down to context.

Ruth expressed that there are plenty of examples of rental rates across all asset classes. Customers are willing to pay someone to look after and store their items – any figure should be available. We must explore what the cost would be to an owner to utilise other channels.

Rhoddy stated that revising HMRC's position triggers uncertainty. There has been a general understanding since 2006 that 1% was safe. Would it be possible to agree that rental rates won't be challenged before a particular date?

Tony reiterated HMRC's position that this issue has been around for 20 years. When we see fit, we should challenge values.

Charles added that this will mean conducting a full review for every client at each rent review.

Ruth argued that rental rates are an investment point, as opposed to a valuation issue. This will put valuers in the position of financial advisors.

Charles discussed the issue of adjustor clauses in rental arrangements. Dave replied that he had raised this with colleagues in IHT Technical, and that it is not a runner. Tony asked that any examples of adjustor clauses be submitted to SAV so the issue can be raised again with IHT Technical.

Tony concluded that he is going to contact Artemis, to better understand their position. Going forward, HMRC will only take a more robust position on this as and when it has concerns over a particular return.

### **CITES – Changes to Legislation:**

Dee advised that Susan had asked for this topic to be included on the agenda.

Susan asked how the valuation of ivory should be affected by the changes in legislation due to occur in the near future.

Dee stated that each valuation should be based on whatever rules are in place at the date of valuation.

Susan added that there will be very few comparables in these particular few months, given the proposed changes in legislation due to take place.

Dee replied that we will accept values where we feel sufficient evidence is supplied in support of the value.

Rhoddy suggested that if a death were to occur now, a degree of pragmatism would be necessary when valuing an asset for the estate, given the uncertainty over future legislation.

Tony added that in some cases there will be a buyer's advantage – there may not be a market for these items in a few months' time. The bottom line is that a valuation should use whatever information is available, and that hindsight is not admissible.

Dee raised the question that when the new legislation comes into place restricting sales, can these items be claimed to have become of negligible value due to there being no market? The current answer is possibly yes. There may be a valid claim if the items have become of negligible value due to the lack of a market.

### **Updated Trust Reporting Rules:**

Dave advised that trust reporting procedures have been updated – it is now necessary to register the trustee's details with HMRC on an annual basis. However, a valuation of assets is only provided at the trust's first registration – there is no requirement to provide a revaluation at each annual update.

John Sibbald stated that HMRC's guidance suggests its desire to keep the burden on trustees to a minimum. It says that the valuation does not have to be a formal valuation, but how are trustees expected to provide an estimate?

Dee suggested that in that case it may be necessary to seek professional advice.

Tony provided that ultimately this is a Trusts and Estates issue, however if anyone wishes to, he asked that these concerns be put in an email to him, so that he can forward this on to the appropriate contact ([tony.spindler@hmrc.gsi.gov.uk](mailto:tony.spindler@hmrc.gsi.gov.uk)).

### **The Submission of Returns – Providing Evidence:**

Karen described the referral process; when original documents are sent to Trusts and Estates, the documents are scanned in black and white and the original copies held for 50 days. By the time a case is referred to SAV, the paper copies have sometimes been destroyed (in line with HMRC's retention policy) leaving the black and white digital copy. This can mean that useful coloured pictures and original documents have been lost. SAV asks that agents keep their original copies, or at the very least a coloured scanned copy to prevent this.

Tony added that all post sent to HMRC is received at a central facility where it is scanned. SAV has an Exceptions Policy so that large documents are not destroyed, however Trusts and Estates have their own policy.

Ruth asked if this information can be included in the Trusts and Estates newsletter, so that solicitors can be made aware.

Charles asked if these documents can be sent directly to SAV in the first instance – however Trusts and Estates also need to see these documents, so that they can refer cases to SAV when they feel it is necessary.

Ruth suggested that SAV make use of Shared Workspace, currently used by the Heritage team. Dee responded that SAV's access to this is unreliable, and that not all agents have access to this. Tony added that he has previously raised the possibility of being able to add attachments to online forms, however this was not feasible.

Tony will raise this issue with the Deputy Director of Trusts and Estates, to learn more about their exceptional handling policy. Ultimately, SAV asks that agents retain a colour copy of any documents they submit.

## **Any Other Business:**

### Agent Penalties

Tony advised that the introduction of agent penalties has recently come to the fore. A team is currently being established in Nottingham (along with others around the country), and SAV will be receiving a CPD session on the topic. Agent penalties are an HMRC wide initiative, and not for the sole benefit of SAV.

John Stancliffe asked that if due diligence is evidenced to have occurred, will this be enough to excuse agents from receiving penalties?

Tony expressed that penalties will only be due in exceptional cases, and will not be the norm. SAV has seen cases where agents have been liberal with the truth but this has always represented a minority of cases. In valuation there will always be a difference of opinion, but that is often not a consequence of negligence, and is acceptable when an agent has acted ethically and correctly.

Mike asked what type of penalties may be applied. Tony replied that it's not clear at present; in some cases penalties can be charged at 30-100% of the potential lost revenue, but we will learn more about this in the CPD session.

### Obtaining Evidence

William asked where SAV look for their evidence? One case he had seen described a comparable found on 5<sup>th</sup> Ave, New York.

Dee replied that we will look at all relevant and available evidence when considering values. Unlike agents SAV do not have access to the item itself and therefore rely on as much research as possible.

### Dave's Departure

Tony advised those present that Dave will be retiring in April 2018. He thanked Dave for his considerable contribution to SAV.

#### **Action Points:**

- Any examples of adjustor clauses to be forwarded to Dee at [dee.atkin@hmrc.gsi.gov.uk](mailto:dee.atkin@hmrc.gsi.gov.uk)
- Any concerns regarding the burden on trustees and providing valuations to be sent to Tony, (to then be forwarded to a T&E contact)
- Tony to raise with Deputy Director of Trusts & Estates about their exceptional handling policy