



A valuer's view

Robert Coram James discusses the valuation of chattels for tax assessment and considers the national heritage schemes available



ABOUT THE AUTHOR

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The responsibilities and duties of executors charged with handling estates are often demanding and time consuming, particularly when it concerns the valuation of personal assets. The responsibility for calculating the value of chattels can be particularly burdensome and to further complicate matters, an increasing number of valuations are being queried by HM Revenue and Customs (HMRC) causing delays and unnecessary expense to executors.

The recent restructuring of the Shares and Assets Valuations team (SAV), which reviews valuation reports, is one reason for this increased scrutiny, but the main cause of HMRC's concern is the upsurge in inaccurate, incomplete and poorly presented valuations being submitted. Documents described as 'probate valuations' are often the first indication that a report has been incorrectly compiled and are treated with suspicion by the SAV team. Likewise, those failing to accurately describe items and assigning a range of values are also highly likely to be referred.

A valuation for inheritance tax (IHT) assessment should provide a separate description for each item valued at GBP500 or more in the open market and the figure should be based on a mid-auction estimate as of the date of death. Photographs should be supplied for all high-value objects and valuers should always be prepared to prove the basis of their figures by providing evidence of comparable items in case of referral.

Those presenting documents that fail to describe items sufficiently find themselves

at greater risk of being challenged and the penalties for submitting inaccurate documents are now much harsher. Under section 247 of the *Inheritance Tax Act* (IHTA) 1984, where personal representatives or their valuers have been found negligent or fraudulent, the penalty is now 100 per cent of the tax liability.

With an increasing number of valuations being challenged every year, executors should consider commissioning a professional valuer to supply a detailed valuation of the chattels in accordance with section 160 of IHTA 1984 to ensure an accurate report. As referrals take, on average, ten months to settle, such precautions will save both time and expense.

Valuations for capital gains tax

Speculation was rife shortly before the emergency budget in June this year that capital gains tax (CGT) could rise as high as 50 per cent for higher-rate taxpayers, with further rumours of the exemption threshold, currently GBP10,100, falling to GBP2,000 as detailed in the Liberal Democrats' manifesto. Certainly the prospect prompted many owners of art, antiques and other high-value items to commission valuations, keen to calculate their potential tax liability should the higher rate be implemented.

Chartered Arts Surveyors are often instructed to supply valuations calculating the gain (or loss) in the value of art, antiques and other chattels. The gain is treated as the difference between the item's original cost, donation or inheritance value and its eventual sale price or value when gifted. If the asset was acquired before the base date of 31 March 1982 then the value should be taken as of that date. Certain types of expenditure may also be deductible, such as associated restoration and sale costs.

Valuing chattels acquired prior to the base date and applying a 28-year-old value

presents certain obvious difficulties and is a challenge for even the most experienced valuer. Without recent comparables, often the only resources are in the form of archived material such as sale catalogues, published indexes and on-line price databases.

It should be noted that there are some attractive CGT concessions well worth considering. The Radio 2 DJ Chris Evans took advantage of one such benefit earlier this year when he sold several classic cars from his collection in order to fund the purchase of his GBP12 million Ferrari 250 GTO. Under section 44 of the *Taxation of Chargeable Gains Act* 1992, classic cars are exempt from CGT because they are classed as 'wasting assets' and as such are expected to have a useful life of less than 50 years.

Other typical examples of wasting assets include guns, clocks, watches, carpets and yachts. Wines and spirits will often fall within this tax-free bracket, providing they are stored in a bonded warehouse, as the majority are perishable and decline in quality after 25 years. However, for exceptional examples, HMRC may decide that there will be an improvement in quality and value after 50 years, in which case the exemption will not apply.

Conditional exemption

The 'Conditional Exemption' scheme relating to chattels dates back to the *Finance Act* 1896 with objects of 'national interest' being exempt from estate duty. The scheme, which now has provisions for land and historic buildings, continues to play an important role in ensuring culturally significant items are preserved for the benefit of the nation.

Under the scheme, owners of artistically or historically significant works of art are eligible for a deferral of IHT and/or CGT, which can be claimed within two years of any transfer on

death and any other taxable transfer of value. In return the owner must agree to preserve and maintain the item, keep it in the UK and allow public access.

Changes to the scheme under the *Finance Act 1998* not only made it much harder for objects to qualify for the exemption but there were also major changes to the rules on public access. HMRC may demand that all chattels, whether historically important in their own right or associated with a historical building, be available to the public between 25 to 156 days a year, with admission by prior appointment at all other times. Owners are also expected to publicise the terms of access and ensure reasonable means of entry.

If the chattels are located within a historic house which is already suitable for public access, then the reality is opening up to the public for at least four weeks a year. If there is no suitable access then items need to be displayed on view, either in a museum or public gallery, for a set term usually agreed by HMRC. Such arrangements are difficult to negotiate with many museums and galleries because of the complicated security and insurance issues. However if owners fail to fulfill these obligations, the exemption is withdrawn and tax is payable.

The Conservative MP Nicholas Soames will be only too aware of the complications surrounding public access. In 1996, he was criticised by the comedian Mark Thomas who claimed Soames had registered a number of items as conditionally exempt without arranging public access, amongst them an '18th century mahogany buffet' valued at GBP20,000. Thomas suggested that 14 May should be known as 'National Soames Day' with an annual viewing of the buffet. Perhaps unsurprisingly, Soames later withdrew his application and paid the GBP8,000 tax bill.

The conditions attached to the scheme are



clearly demanding, especially the negotiation of public access requirements with HMRC who are liable to vary arrangements with little or no notice. But the deferral of tax can be of great value and the scheme can be of huge benefit, especially for those wishing to keep large collections intact and on display for the benefit of the nation.

Acceptance in lieu

The recent donation of Francesco Guardi's painting *The View of the Palazzo Loredan* to the National Museum of Wales highlights the considerable tax incentives of the government's Acceptance in Lieu (AiL) scheme.

The scheme, which has its origins in Finance Act 1910, is governed by IHTA 1984 (Sections 230-231) under which the government has an arrangement with HMRC that allows

'pre-eminent items', i.e. heritage objects that are historically or artistically significant, to be offered in lieu of inheritance tax.

Under the scheme the estate receives not only the full market value, out of which the inheritance tax is paid, but also what is known as a '*douceur*', in which the government reduces the amount of tax due by 25 per cent. This is the main incentive to taxpayers and is seen as an attractive alternative to selling through auction with all the associated costs.

A whole range of items varying in value can fall within its scope – works by living artists David Hockney and Howard Hodgkin have been accepted, together with less obvious items such as furniture, silver, books and manuscripts.

The scheme has been extended in recent years with the so-called 'hybrid' offer in lieu, with objects of greater value than the tax bill to be settled being eligible for financial assistance from various institutions, such as the Art Fund, to make up the difference.

The tax benefits of AiL are substantial, but it has also been an effective means of acquiring art for the nation with hundreds of museums and galleries profiting from important works which might otherwise been lost to overseas buyers.

Conclusion

The increased attention that HMRC are paying to valuations of chattels for IHT assessment will no doubt be a cause of concern to many private client solicitors, particularly because of the lengthy delays this can cause to the winding-up of estates. Using the services of a professional valuer, whether for chattels valuations or for advice on the various national heritage schemes, not only ensures the process is dealt with efficiently and swiftly, but also that the best objective and practical advice is readily available when it is needed most. ■