

NHERITANCE TAX - agreed variations to Notice of Determination - Notice of Determination varied by consent - IHTA 1984 s 224(5)

THE SPECIAL COMMISSIONERS

JOHN HENDERSON AND MARY HENDERSON

THE TRUSTEES OF

WILLIAM BLACK DECEASED

Appellants

- and -

THE COMMISSIONERS OF INLAND REVENUE Respondents

SPECIAL COMMISSIONER : DR A N BRICE

Sitting in London on 15 August 2000

There was no appearance by or on behalf of the Appellants

Mr Peter Twiddy, Assistant Director, Capital Taxes Office, for the Respondents

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DECISION

The appeal

1. Mr John M Henderson and Mrs Mary C H Henderson, the trustees of William Black deceased (the Appellants), each appeal against a Notice of Determination dated 13 August 1999 in the following terms:

"The Commissioners of Inland Revenue have determined:

In relation to -

the chargeable occasion on 30 March 1995, the ten year anniversary of William Black's Settlement of 30 March 1965 ("the settlement"),

that

1. The value of the property comprised in the Trust so far as returned but not yet substantiated by you was £176,768.08 on the date of the chargeable event

2. The value of the distributions within the previous ten years so far as calculated by reference to the terms of the Settlement deed and the figure at 1. above was £88,384.04

3. The transfer is chargeable to Inheritance Tax by virtue of Section 64 of the Inheritance Act 1984

4. The Inheritance Tax attributable to the aggregate chargeable value of 1. and 2. above is £6,908.10

As one of the Trustees you are jointly and severally liable for the tax and interest at the statutory rate prescribed from time to time (presently 4%) from the due date until the date of payment."

2. Section 224(5) of the Inheritance Act 1994 provides:

"(5) The Special Commissioners shall on an appeal to them confirm the determination appealed against unless they are satisfied that the determination ought to be varied or quashed."

Failure of Appellants to attend hearing

3. When the appeal was called on for hearing there was no attendance by or on behalf of the Appellants. A telephone call was made to the Appellants who indicated that they did not intend to attend.

4. Regulation 16 of the Special Commissioners (Jurisdiction and Procedure) Regulations 1994 SI 1994 No. 1811 provides:

"Failure of parties to attend hearing

16(1) If a party fails to attend or be represented at a hearing of which he has been duly notified, the Tribunal may-

(a) unless it is satisfied that there is good and sufficient reason for such absence, hear and determine the proceedings in the absence of the party or his representative, or

(b) postpone or adjourn the hearing.

(2) Before deciding to hear and determine any proceedings in the absence of a party or his representative, the Tribunal shall consider any representations in writing or otherwise submitted by or on behalf of that party in response to the notice of hearing and shall give any party present at the hearing an opportunity to be heard in regard to those representations."

5. The relevant parts of Regulation 19 provide:

"Review of Tribunal's decision in principle or final determination

(1) If, on the application of a party or of its own motion, a Tribunal is satisfied that ...

(b) a party who was entitled to be heard at a hearing but failed to appear or be represented, had good and sufficient reasons for failing to appear or be represented ...

the Tribunal may review and set aside or vary the decision in principle or final determination ... ."

6. Accordingly I proceeded to hear and determine the appeal in the absence of the Appellants bearing in mind the provisions of Regulation 19.

The agreed terms of variation.

7. For the Respondents Mr Twiddy said that he had had discussions with the Appellants who were content with the figures in the Notice of Determination. However, the Appellants had since provided further information which altered the value of the property. The value of loans had increased from £148,741.69 to £158,821.69 which was a difference of £10,080.00. The Appellants had therefore agreed that the figure in paragraph 1 of the Notice of Determination should be increased by that amount so that the value of the property was changed from £176,768.08 to £186,848.08. That meant that the figure in paragraph 4 should be changed from £6,908.10 to £7,513.16. Interest from 1 October 1995 to 11 August 2000 amounted to £1,756.27 making a total of £9,269.43.

Decision

8. In the light of the above agreement the Notice of Determination is varied BY CONSENT in the following way: :

In paragraph 1 £176,768.08 to be deleted and replaced by £186,848.08

In paragraph 4 £6,908.10 to be deleted and replaced by £7,513.16.

DR AN BRICE

SPECIAL COMMISSIONER

Date of Release: 23<sup>rd</sup> October 2000

sc3027/2000