

INHERITANCE TAX – business relief – residential caravan park with caravan storage area – provision of services predominates over the holding of investments – business relief available

THE SPECIAL COMMISSIONERS

THE EXECUTORS OF ELSIE FANNY STEDMAN Appellant

- and -

THE COMMISSIONERS OF INLAND REVENUE Respondent

Special Commissioner: DR JOHN F AVERY JONES CBE

Sitting in public in London on 17, 18 and 19 June 2002

Robert Argles of counsel instructed by Birkett Long, solicitors, for the Appellant

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

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DECISION

1. This is an appeal by the Executors of Elsie Fanny Stedman deceased who died on 30 August 1998 against a notice of determination made on 12 November 2001 that the Deceased's 85 per cent holding of shares in Dunton Park Caravan Sites Limited (the Company) did not qualify for business relief from inheritance tax. The Appellants were represented by Mr Robert Argles and the Revenue by Mr Peter Twiddy.
2. This issue in the appeal is whether the shares are excluded from business relief by section 105(3) of the Inheritance Tax Act 1984:

"...shares in...a company are not relevant business property ...if... the business carried on by the company consists wholly or mainly of...making or holding investments."

3. There have been a number of previous appeals to the Special Commissioners on the same question concerning caravan sites, the most recent of which was appealed to the High Court in *Weston v IRC* [2000] STC 1064. In that appeal Mr Argles tried to argue that in reality the holders of caravan sites were paying for the services provided by the company rather than for the mere right to enjoy the pitch, but he was not permitted to raise this as a new point in the High Court. He now raises the same argument in this appeal.
4. I was fortunate in having a very comprehensive and clear bundle of documents including full witness statements from Mrs P A Purcell, daughter of the deceased and the director of the company, and Mr I B Loochin FCA who has been the family's and the Company's accountant for 25 years, both of whom gave evidence. Mr Loochin and Mr Twiddy both helpfully provided further calculations during the course of the appeal. I

asked the Appellants if they wanted to introduce further evidence clarifying the amount of the service element and they responded that they did not.

5. The Company has had a licence for mobile homes since the 1960s. Mrs Purcell has run the Company since her father's death in 1984. The Company carries on eight activities which are described in detail in Mrs Purcell's statement but can be summarised as follows.
 1. The residential homes park. At the time of the deceased's death this consisted of 167 mobile homes. The caravans are owned by the residents and not by the company. The residents receive connections to sewerage, water, electricity and, if required, calor gas which is supplied either by bottled gas or by the hire of mini gas tanks. The company arranges bulk supply of electricity and calor gas for resale to residents. All electrical installations on the site after the powerhouse to which the mains electricity supply is made belong to, and are maintained by, the Company. The company reads each resident's electricity meter monthly and invoices residents. The Company recovers the cost of electricity for streetlights and the office and club in the charge it makes for electricity to the residents. The Company stores gas bottles for supply to residents and invoices residents for deliveries to the gas tanks hired by the Company to residents. It makes a profit on the supply of electricity and gas to residents. Water is supplied to residents at a fixed charge and is paid for by the Company on a metered basis, on which the company makes a profit. The common parts are lighted, the roads are maintained, there is an emergency telephone, fire hydrants, and a visitor's car park. Rubbish is collected weekly and three large skips for garden rubbish are provided for residents and emptied weekly. Residents can use the general store/newsagent which is let at a concessionary rent and not operated by the Company. Residents pay their own general rates and make their own arrangements for telephones. There are car parking spaces and garages available for hire. There is a full-time site manager. A considerable amount of staff time relates to this part of the business; Mrs Purcell apportioned to it 48 per cent of one member and 10 per cent of another member of the office staff, 40 per cent of two full-time, 50 per cent of another working 30 hours per week, 50 per cent of another full-time but seasonal, and either 40 or 50 per cent of the three part-time, members of the maintenance staff and, 40 per cent of the site manager and assistant site manager. The company takes a commission of 10 per cent on sales of caravans on the site. In addition it sells caravans, making a profit on that activity.
 2. Dunton Park Country Club. This operates from a separate building comprising a bar which is open every evening and a suite available for hire to non-members for private functions. Income is also received from fruit machines. Membership is available for a fee to residents and non-residents of the site. Of the 363 residents in 1997/98 117 were members and there were 62 non-resident members and 16 complimentary members. Residents can use the function suite on one afternoon each week. It is common ground that this activity is not part of a business of making or holding investments
 3. Caravan storage. There is an area for storage of touring caravans when not in use. Agreements for storage are for periods of six months or a year and relate to a specific plot, although the Company can move caravans if necessary, for example for maintenance. At the time of the deceased's death there were 443 caravans stored there. There is 24-

hour access via a barrier that is operated by a computerised key fob issued to plot holders. All movements are recorded on a computer in the office. The storage area has a high fence and a security guard there throughout the night. The security guard is not required by the agreements with the plot holders but is commercially necessary and satisfies insurance requirements since all caravans are required to be insured by their owners. Caravans stored in this part cannot be occupied. A considerable amount of staff time relates to this part of the business; Mrs Purcell said that 90 per cent of incoming telephone calls related to it and she apportioned to it 50 per cent of five members of the maintenance staff and one member of the office staff, 40 per cent of the site manager and assistant site manager, and 30 per cent of a further full-time member of the maintenance staff. This aspect of the business is liable to VAT.

4. The office from which the administration is run.
 5. Warehouse and shop. These are separately let.
 6. Fields. These are let on grazing licenses to a farmer.
 7. Insurance. The Company has an insurance agency and received commission on insurance sold to residents and owners of caravans stored on the site.
 8. Interest. The Company also receives interest on cash balances which is not regarded as a separate business.
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6. The site licence granted in 1981 under the Caravan Sites and Control of Development Act 1960 lays down detailed conditions covering density, maintenance of roads and footpaths, hard standings for caravans, siting of caravans, fire hydrants, fire points, fire alarm, maintenance of alarms and fire fighting equipment, fire notices, fire hazards, emergency telephone, water supply to each caravan, drainage, sanitation and washing facilities, car parking, recreation space, tree planting and landscaping, electrical installation to each caravan. Since the licence was granted, considerable improvements had been made, for example, mains drainage had been installed in place of a treatment plant, and fire hoses instead of fire extinguishers.
 7. Agreements with residents of the residential homes park are governed by the Mobile Homes Act 1983. This Act provides that agreements cannot be terminated by the Company without an order of the court. It also provides for statement of various matters to be set out in a written statement. The agreement with the residents is in a standard form for agreements under that Act issued by the National Park Homes Council and the National Caravan Council. The agreement is that of a licence to occupy a particular site. The Company reserves the right of access to the site and the right to move the caravan to a comparable plot for the purpose of carrying out essential works. The licence fee is renewable annually having regard to (i) the retail price index, (ii) "sums expended by the owner for the benefit of the occupiers of mobile homes on the park", and (iii) any other relevant factors including the effect of legislation applicable to the operation of the park.
 8. The scale of the activity of the Company is considerable as can be seen from the numbers of staff. Apart from Mrs Purcell, the director, there are three full-time staff in the office. The club has a full-time steward and

three part-time bar staff. There is a site manager, two assistants, three full-time plus one working 30 hours a week, two part-time (one working over 20 hours per week and the other doing odd jobs) maintenance and ground staff, and two cleaning staff, one working 17 hours per week. Mrs Purcell made a breakdown of the activities each member of the staff between the types of activity. Some of the activities are time consuming for the staff. For example, she estimated that reading the 181 electricity meters took one day, issuing the invoices 2 days plus time spent delivering the invoices, and recording payments took another 2 days.

9. For corporation tax the Company is taxed as a trading company. Extra-statutory Concession B29 provides that where the proprietor of a caravan site carries on trading activities associated with the operation of the site there may be included as a receipt of the trade income from lettings of pitches for static or touring caravans where the letting activity does not of itself amount to a trade. Since the treatment of the Company as a trading company may involve an element of concession if the letting activity is not a trade I have not taken this point into account.

10. The following sets out Mr Loochin's breakdown of the results for the year ended 31 October 1998 (being the Company's year during which the deceased died on 30 August 1998). I was also given figures for the previous year and some figures for 1995 onwards. These show that the Company's activities and results are fairly constant and I shall accordingly concentrate only on the 1998 period in which the deceased died. Using those figures I have set out the result before and after deducting Mrs Purcell's director's fees under the overheads on the basis that it is impossible to allocate the director's fees (and also the fact that none of them was allocated to the club did not reflect the evidence) and the amount of them is to some extent in the control of the shareholders. In showing the overheads before the director's fees I have included with the director's fees the company secretary's fees (£4,729) and the office staff (£5,219) to save having to allocate these separately under overheads between the various categories.

	Storage	Club	Gas and electricity	Water	Caravan Sales & Commission	Site fees	Other	Total
Turnover	81732	63463	93716	21234	120977	235327	17331	633780
Direct costs		45800	68541	10279	55514			180134
Gross profit	81732	17663	25175	10955	65463	235327	17331	453646
Overheads	67080	56088	5200	5200	5200	169434		308202
Net profit	14652	38425	19975	5755	60263	65893	17331	145444
Director's fees	7523	7260	5740	5740	5740	97587		129591
After director's fees	7129	45685	14235	15	54523	31964	17331	15853

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12. I should also mention that the 1998 accounts capitalise £35,075 of expenditure on the land and buildings, being half the expenditure on

refurbishing the warden's cottage, and so the actual expenditure is greater than that included under "overheads" in the table.

13. Mr Loochin was happy with the breakdown of turnover and gross profit but he said that there was considerable subjectivity about the allocation of overheads and director's fees. The staff costs have been allocated according to Mrs Purcell's allocation of their duties. I regard the allocation of overheads as realistic, subject to some details, such as that no irrecoverable VAT should have been allocated to the storage business as it is liable to VAT, and I prefer to consider the profit before the director's fees for the reason I have given.

14. What is the meaning of the business of holding investments?

15. In *Cook v Medway Housing Society* [1997] STC 90 the issue was whether the housing society was an investment company, defined (in part) as a "company whose business consists wholly or mainly in the making of investments" which is extremely similar to the definition here, except that the inheritance tax definition refers to making or holding investment (which may not be particularly substantial a difference since having made an investment one must necessarily hold it). Lightman J applied this definition at p.98c: "The term 'investment' means the laying out of moneys in anticipation of a profitable capital or income return." He concluded at p.101a by saying: "The critical question is whether the holding of assets to produce a profitable return is merely incidental to the carrying on of some other business, or is the very business carried on by the taxpayer." In *Weston v IRC* [2000] STC 1064, the only caravan park case relating to inheritance tax to have gone to the High Court, Lawrence Collins J reviewed the authorities, including *Medway Housing Society*, and quoted Lightman J's summary of the authorities in paragraph 21: "In determining what is the business of a company...it is necessary to have regard to the quality, purpose and nature of the company and its activities, and this includes the full circumstances in which the relevant assets are acquired and retained...". Lawrence Collins J concludes in paragraph 22: "Essentially therefore the question of whether assets are investments or are held as part of a business, and whether the business consists wholly or mainly of the holding of those investments, is a question of fact to be determined by the commissioner."
16. It is not in dispute that the Company carries on a business; the question is whether it is a business consisting mainly of holding or making investments. There is a spectrum at one end of which is the exploitation of land by granting a tenancy coupled with sufficient activity to make it a business, which may be activity in granting tenancies rather than activity in relation to the tenancy once granted. At the other end of the spectrum, while land is still being exploited, the element of services means that there is a trade, such as running a hotel, or a shop from premises owned by the trader. Normally for income tax, leaving aside services for which a separate charge is made, the income must be either income from land or trading profits. Here the concept of trade is irrelevant and one is required to determine whether the business of the company consists mainly of making or holding investments or some other business. Although I was referred to a number of income tax cases, I do not find these helpful on this issue.
17. The argument in this case that the business of a residential caravan site is mainly the provision of services was not put forward in any of the previous cases before the Special Commissioners, and the attempt to put it forward on appeal in *Weston* did not succeed. In *Powell* [1997] STC (SCD) 181 a long-term caravan business was held to be the business of holding investments but the site was in a run-down state (p.184b) and there was no evidence of any business activity beyond the receipt of income from

caravan rents (p.186j). In *Hall v IRC* [1997] STC (SCD) 126 there was a different type of caravan park with the caravans occupied only in the summer (p.128g). It was assumed that receiving rent from them was the business of holding investments and the decision was that commissions on the sale of caravans was ancillary to the main business. In *Furness v IRC* [1999] STC (SCD) 232 (in relation to the long-term caravans), and *Weston v IRC* [2000] STC (SCD) 30 it was assumed that the residential caravan business was that of holding investments and the issue was whether this was the main business, which it was not in *Furness* and it was in *Weston*. Accordingly these cases do not help me in relation to the Appellant's argument in this case.

18. *Farmer v IRC* [1999] STC (SCD) 321 is helpful as it concerned a farm which also had let properties. In deciding that the business was mainly that of farming the business was considered in the round and the fact that the lettings were more profitable than the farm was one factor to be taken into account but not a decisive factor.
19. Approaching this question in accordance with the authorities cited, the issue is: is the holding of land to produce a profitable return incidental to the carrying on of some other business (which in this case is the provision of services to the residents) or is it the very business carried on by the company? As there are considerable differences between the various activities of the Company I shall first look at each of these separately and then, as in *Farmer*, which both parties accepted was the approach I should adopt, return to look at the whole business in the round.

The residential homes park

20. Mr Argles summarised what the Company provides to residents as first, the right to park their mobile home on a particular piece of hard standing; secondly, securing the connection to the Company's sewerage, water pipes and electricity; and thirdly the provision of the following services:
 - a. the right to secure the maintenance of the systems supplying electricity to their homes;
 - b. the right to secure the maintenance of the water supply connected to their homes;
 - c. the right to secure the maintenance of the sewerage waste disposal drains from their homes;
 - d. the right with other residents to secure the maintenance and upkeep of the roadways in the park;
 - e. the right with other residents to secure the proper lighting of the park;
 - f. night patrols intended to secure that the park was safe from intruders or disturbance;
 - g. the right (to secure with other residents) the maintenance of emergency telephones and fire hydrants;
 - h. the right to share the use of the visitors car park;
 - i. a weekly collection of household refuse;
 - j. the provision of large skips for garden rubbish;
 - k. the upkeep by mowing and otherwise of the common parts of the residential site.
21. He draws the dividing line between the investment and the services element of the business by saying that the former is that which is granted by the agreement to enable the resident to enjoy the right granted. Thus the grant of a right of way is part of the investment element, but keeping the right of way in repair is not; it is the provision of services. He accepts that the first and second items in the previous paragraph relate to the holding of investments but contends that the items listed in paragraph (a) to (k) are the provision of services.

22. To demonstrate this split in figures Mr Loochin took the annual income per unit of 200 square feet for caravan storage of £190 in 1988 of which he estimated £30 was for the services of security and maintenance of that area and the remainder of £160 was therefore pure rent. Taking the average area for a mobile home as 600 square feet, using the same rent as for the storage part gives £480 per unit per annum of pure rent, leaving £929 (69 per cent) of the total site fee of £1,409 as being for services. On that basis the investment income of the company is 14.17 per cent of the turnover.
23. Mr Argles made the analogy of land that had been let on long leases subject to a service charge for the upkeep of the common parts on which the provider could make a profit. So as to ignore the premium received for the long leases let us assume that a purchaser has bought the reversion for a small sum representing its investment value. If the upkeep of the common parts were provided by a separate company the business of that company would clearly not be holding investments. It should not make a difference if the common parts were kept up by the landlord. One would be able to see the different charges for rent and service charge. If the rent was small in relation to the profit from the service charge the business of the landlord would not be holding investments. He says that this case is similar to properties let on long leases.
24. Mr Twiddy summarised the Revenue's position as follows:
0. Land is in general held as an investment where gain is derived from payment to the owner for the use of the property by another. A landlord will therefore normally hold his property as an investment (compare *Harthan v Mason* (1979) 53 TC 272, p.276f). This may be contrasted with land held as an asset of his business where the land is employed as the site or merits for the production or delivery of goods or services (compare *IRC v Tootal Broadhurst Lee Co* (1949) 29 TC 352, 376).
 1. In *Weston v IRC* [2000] STC 1064, at p.1076j, "Thus land is generally held as an investment where gain is derived from payment to the owner for use of the property, and so a landlord has to engage in activities of maintenance and management which are required by the lease or are incidental to the letting." See the extent of the services provided and the number of staff employed in *Cook (Inspector of Taxes) v Medway Housing Society Ltd* [1997] STC 90, a company whose business consisted wholly or mainly in the making of investments in the definition of investment company for corporation tax.
 2. In *Weston* at p 1077, we are told "whether the business consists wholly or mainly of making or holding investments is a question of fact, and it is necessary to have regard to the quality, purpose and nature of the taxpayer and its activities." In this context see the letters, which are general in nature, referred to at p.1069 and 1070 – mobile home parks are apparently generally regarded as investments.
 3. The question in each case is whether the business is fairly described as a business consisting wholly or mainly of holding investments. If the business is fairly described as one of letting with ancillary activities it will be fairly described as a business consisting wholly or mainly of holding investments. On the other hand if it is fairly described as a business consisting of the provision of services or of other trading activities with the ancillary use or occupation of the land, it will not be a business consisting wholly or mainly of holding investments.

4. If there is a business of letting land, activities which arise from compliance with the landlord's covenants under the relevant lease of licence or which are incidental to the letting will not alter the nature of the business from one of holding investments. Thus the business of owning and managing a property let to tenants will in general be a business consisting mainly or wholly of holding investments even though the property requires to be maintained and managed (Compare *Martin v CIR* [1995] STC (SCD) 5, 10, *Burkinyoung v CIR* [1995] STC (SCD) 29, 33).
 5. The character of a particular business must be determined by looking at the business in the round (compare *Farmer v IRC* [1999] STC (SCD) 321).
25. Mr Twiddy contends that in order to run a caravan site the Company must comply with the conditions of the site licence and anything done in complying with the site licence is part of the business of exploiting its ownership of the caravan site, which is the business of making or holding investments. He calculates that the investment element is 65.2 per cent of the turnover (which I think is to be compared with Mr Loochin's 14.17 per cent) and 82.34 per cent of the gross profit. The investment aspect includes the cost of the electricity and water. I shall deal with the electricity and water separately below. He warns against being too concerned with figures by supposing that more profit was obtained from selling caravans than was obtained from pitch fees with virtually no time being expended on selling caravans. The conclusion that selling caravans was the main business would be incorrect, as is shown by *Farmer*.
26. I return to the question: is this aspect of the Company's business the holding of land to produce a profitable return incidental to the carrying on of some other business (which in this case is the provision of services to the residents) or is it the very business carried on by the company? The following seem to me to be the important considerations.
27. The Company's income from this activity is in the form of site fees which gives the impression of something like rent which is the return on an investment. Mr Twiddy says that land is often held as an investment and in particular when there is a payment for the right to occupy land it is likely to be an investment activity. But that is not conclusive because a hotel's income is at least in part from the licensing of its rooms. The site fees are to some extent similar to a service charge for maintenance of the common parts because the site fees can be reviewed to reflect "sums expended by the owner for the benefit of the occupiers of mobile homes on the park." Mrs Purcell told me that the capitalised expenditure on the warden's cottage was reflected to some extent in the review of the site fees but that in reviewing the site fees one had to have regard to the fees charged by other parks.
28. Although I do not have a breakdown between expenditure on the particular site and the estate as a whole, it seems that only a small part of the expenditure relates to the individual site, such as such as weekly rubbish bag collection. Most of the items listed by Mr Argles relate to the site as a whole, for example road maintenance, grass cutting, and security, which if there were carried out by a landlord would not be an investment business, as in *Tintern Close Residents Society Ltd v Winter* [1995] STC (SCD) 57. I agree with Mr Argles' analogy of the owner of properties let on long leases where the service charge element would not be part of the return from holding the investment.
29. A considerable proportion of the site fees go in expenses of running the site. It will be seen from the figures in paragraph 10 that the attribution of the overheads to site fees results in 72 per cent of the site fees go in overhead expenditure (excluding the director's fees) leaving 28 per cent.

The overheads set against the site fees consist of staff costs (excluding the director's fees) £32,570, premises costs £8,970, repairs re site £72,084, other repairs and maintenance £4,426, security £8,960, sundry administration £3,685, miscellaneous £21,935, irrecoverable VAT £7,986, depreciation (plant and vehicles) £8,818, total £169,434. There are no doubt cases of holding investments where the maintenance expenses are high (Mr Twiddy instanced *Cook v Meadway Housing Society*) but the level of expenses points towards a non-investment type business.

30. Mr Twiddy contends that mobile homes parks are regarded as investments. In the *Weston* case at p.1069 two letters are set out from Mr C M Tucker FIBA of a firm of specialist agents dealing in caravan parks. Mr Tucker says that he was asked to make a comparison of the yield based upon the basic pitch fee income of a park and the yield from a commercial property investment. He explains that this is difficult because of the increased running costs of a caravan park but he says it would not be unreasonable to assume that the trading activities serve to cover the running costs of the park, and on that basis he makes a comparison of the yield. That conclusion was relied upon by the Special Commissioner in *Weston* ([2000] STC at 1072c). In this case that assumption clearly does not apply. The overhead expenses in this case far exceed the profit from the trading activities even before the director's fees. We do not have any such evidence in this case but it is reasonable to suppose that a valuer would have difficulty in valuing the Company on the basis of the yield from site fees.
31. Looking at the question of what the Company does, as set out in paragraph 16, the provision of the connection (as opposed to the maintenance) of sewerage, water and electricity is a right to use the investment of the Company in the infrastructure of the site. Mr Loochin's figures for the service element in the site fees seem to me not to have regard to the fact that the Company is also obtaining a return on its investment in electricity cables, water pipes and sewers, and so not all the difference between the pure rent for caravan storage and the site fees is attributable to services.
32. Other cases have assumed or decided that running a long-term caravan site is the business of holding investments. However, the point argued in this case was not argued in those cases and on their facts the services element may have been much smaller than in this case. This is also the first case where the expenses have been analysed in detail.
33. I accept Mr Argles' approach of saying that the investment business is that of making a return on the licensing of the site and the right to use the facilities such as water, drainage and electricity that are connected to the particular site. The remaining items, principally maintenance of the common parts, relate to the provision of services and are not the business of holding investments.
34. I do not accept Mr Twiddy's contention that everything done pursuant to the site licence must be part of the investment business. It is true that if the site licence is not complied with there will be no business, but it does not determine what type of business it carries on. One could argue with a hotel that but for the ownership of the land and buildings there would be no hotel but that argument does not lead to the conclusion that running a hotel is the business of holding investments. The site licence is merely part of the regulatory framework within which the Company operates. The same applies with more force to the argument that anything done pursuant to the agreement with the residents must be part of the investment business. If one contracts for all the services provided by a hotel that does not lead to the conclusion that the business is one of holding investments. The most one can say is that if there is a business of

holding investments matters covered by the agreement with the occupiers may be ancillary to that business.

35. Taking all these factors into account, the service element is considerable, as indicated by the level of expenditure, but so is the investment element because the Company is obtaining a return on its considerable investment in the site and the infrastructure. I cannot put a figure on each and would have found it helpful to have a valuation of the pure rent taking into account the infrastructure. But given the figures I have, 72 per cent of the site fees goes in overheads (excluding the director's fees) most of which relate to the provision of upkeep of the common parts. In my view the services element predominates. On this aspect the very business of the Company is the provision of services and not the business of holding investments.

Gas, electricity and water

36. Mr Argles characterises the business as trading in these items for profit, so that they have nothing to do with holding investments. Mr Twiddy contends that but for the provision of, at least the electricity and water which is required to be provided by the site licence, there would be no income from the sites and no business of the company, so that they are part of the business of holding investments. Accordingly he attributes the cost of the supply of these to the business of holding investments and only the profit to other business. Since gas is not required to be provided by the site licence he attributes the whole of the supply of gas to non-investment business.
37. The issue is not whether the provision of these services enable the company to earn its income. It is whether this income arises from the business of making or holding investments. The income arises directly from the purchase and resale of these items at a profit. I have already explained why I do not accept Mr Twiddy's approach based on what is provided pursuant to the site licence. The holding of land is incidental to this business in the sense that but for the holding of land there would be no business, just as would be the case if the Company were running a hotel, but it is not the business itself. Accordingly I agree with Mr Argles that this aspect is wholly not a business of making or holding investments.

Caravan sales and commission

38. The same arguments arise here as with the gas, water and electricity. Mr Argles says that they are a separate trade of dealing in caravans either as principal or agent. Mr Twiddy says that but for the running of the site there would be no caravan sales or commission on the sales of caravans on the site by their owners and therefore it is incidental to the investment activity.
39. I think that the result is the same as for the gas, water and electricity. This income clearly does not arise from the making or holding of investments but from the separate activities of buying and selling caravans either as principal or agent. The holding of land is incidental to the business in the sense that the business would not exist but for the holding of land, but it is not the business itself.

Caravan storage

40. Mr Argles contends that the caravan storage business is akin to an airport long-term car park, or a left luggage depository. In addition to the

provision of the space on which to park the caravan, the Company provides some services, in particular the important one of security and monitoring the computerised barrier, and there is a significant involvement of maintenance staff. Mr Twiddy contends that it is merely exploiting the company's ownership of that part of the site.

41. The storage periods for a specific plot for a minimum of six months or on an annual basis is unlike an airport car park or a left luggage depository. The element of service here is predominately the security. Fewer services are provided than at an airport car park since one expects a frequent bus service to and from the parking place. There are also fewer services than having someone in attendance at a left luggage, although I appreciate that it might be said that the 24 hour access by computerised barrier is a modern equivalent to someone in attendance. I also bear in mind the considerable overheads that are apportioned to this aspect of the business. Even taking this into account, I consider that the long-term nature of the agreements relating to a specific plot shows that the predominate element is income from holding the land. So far as this aspect is concerned I consider that the holding of land as an investment is the very business carried on by the Company.

The club

42. It is common ground that this activity is not part of a business of making or holding investments.

Other income.

43. This consists of income from letting the warehouse, income from the grazing agreement which is clearly income from exploiting the company's investment in its land, and interest which is income from the investment of the company's money. Included in this item is a small amount of insurance commission from the activity of acting as an agent of the insurance company in obtaining insurance business.
44. The letting income is clearly income from holding investments. The insurance commissions are clearly not income from holding investments. Since the cash arises from all the Company's activities and obtaining interest on it is not a business in itself I shall treat this income as not arising from the holding of investments.

The main business of the Company

45. On the basis that the caravan storage business plus the rental income are investment activities, in 1998, 40 per cent of the turnover, 20 per cent of the gross profit and 16 per cent of the net profit before the director's fees is referable to holding investments. I have considered the business of the Company in the round to see whether, as in *Farmer*, these figures are outweighed by other factors. I do not think they are. The figures give a good reflection of the nature of the business. I conclude therefore that the business of the Company is not mainly that of making or holding investments.
46. Accordingly I allow the appeal and quash the determination.

J F AVERY JONES

SPECIAL COMMISSIONER

SC3001/02

Authorities referred to in skeletons or in argument and not referred to in the decision:

Coman v Governors of Rotunda Hospital 7 TC 517

IRC v Desoutter Bros Ltd 29 TC 155

IRC v Buxton Palace Hotel 29 TC 329

Jennings v Middlesbrough Corporation 34 TC 447

Henry Briggs Son & Co v IRC 39 TC 410

Fry v Salisbury House 15 TC 113

Brown's Executors v IRC [1966] STC (SCD) 277