

Valuation of Farmhouses For Rating Purposes
Guidance Note

Schedule 12 Part II

- (1) The net annual value of a house occupied in connection with agricultural land or a fish farm and used as the dwelling of a person –
 - (a) whose primary occupation is the carrying on or directing of agricultural or, as the case may be, fish farming operations on that land; or
 - (b) who is employed in agricultural or, as the case may be, fish farming operations on that land in the service of the occupier thereof and is entitled, whether as tenant or otherwise, so to use the house only while so employed, shall so long as the house is so occupied and used, be estimated by reference to the rent at which the house might reasonably be expected to let from year to year if it could not be occupied and used otherwise than as aforesaid.
- (2) The capital value of a house occupied and used as mentioned in paragraph 1 shall be estimated on the assumption (in addition to those mentioned in Part 1) that the house will always be so occupied and used.

Definitions

1. **“Occupied in connection with”**

Dictionary – a connecting or a state of connection; an association; junction; union; association; the state of being connected.

Ryde [12th Edition] – The phrase “occupied in connection with” does not carry with it any implication as to title; so in the case of a person who is primarily engaged in carrying on or directing the agricultural operations, he may own both land and house, or he may own the one and be the tenant of the other.

Case law – The expression “occupied together with” which although a different definition is sufficiently similar that it warrants examination was considered in VR/4/1979 – Maurice E Taylor –v- The Commissioner. The Tribunal noted:-

“the expression ‘occupied together with’ has received much judicial notice and it is sufficient for the Tribunal to say that one must find occupation in the rateable sense, and that the words ‘together with’ relate more to a functional than to a geographical connection, though separation by distance may diminish the functional connection as a matter of fact and degree.”

Per Gibson L.J. in the Court of Appeal in the same case.

“The first phrase ‘occupied together with agricultural land’ involves two separate considerations. First, both the building and the agricultural land must be occupied, which as I understand it means occupied in the rating sense, and secondly they must be in the occupation of the same person and they must be occupied together.”

Comment

- The normal situation is that the farmhouse and land form one unit, the house being situated on the land.
- But this does not preclude other arrangements. A house may be occupied separately from land
 - Both can be held under different titles
 - But both must be occupied by the same person

2. **“Agricultural Land”**

Agricultural land is defined at Schedule 1 of the 77 Rates Order as follows:

“1. In this Order “agricultural land”

(a) means any land used as arable, meadow or pasture ground only (including pastoral land), land used for a plantation or a wood or for the growth of saleable underwood, or land exceeding 0.1012 hectare used for the purposes of poultry farming, market gardens, nursery grounds, orchards or allotments, but does not include land occupied together with a house as a park, gardens or pleasure grounds, or land kept or preserved mainly or exclusively for purposes of sport or recreation or land used as a racecourse; and

(b) includes land, occupied with, and used solely in connection with the use of, such a building as is mentioned in paragraph 2(1)(b)

2(1) (b) includes a building which is used solely in connection with agricultural operations carried on, on agricultural land and which is occupied either –
(i) by the occupiers of all that land; or
(ii) by individuals who are appointed by the said occupiers for the time being to manage the use of the building and of whom each is an occupier of some of the land or a member of the board of directors or other governing body of such an occupier who is a body corporate.

where the number of occupiers of all the said land does not exceed twenty-four (two or more persons occupying jointly being counted as one, but as a separate person from any of them who are occupying and of the land severally).

3. **“Fish Farm”**

A fish farm is defined at Article 2 of the 77 Rates Order as follows:

“Fish Farm” means an undertaking for the culture of fish in respect of which a fish culture licence is in force under Section 11 of the Fisheries Act (NI) 1966 other than fish –

- (a) which are purely ornamental; or
- (b) which are for exhibition

4. **“Used as the dwelling of a person”**

Relevant case law is Woodhams [VO] –v- Williams L.T. 17 RRC 287 [1971] RA 321 [1971].

The case concerned a husband and wife who were in joint rateable occupation of a farmhouse. The wife ran the farm, and was admitted to be “primarily engaged in carrying on or directing agricultural operations on the land”. The husband was in full-time practice as a solicitor. The valuation officer contended that to qualify for rating relief as an agricultural dwelling – house, both the joint occupiers had to be primarily engaged in agriculture.

The Tribunal held that to qualify for relief it was sufficient if only one of the joint occupiers was primarily engaged in agriculture.

Comment

In a case where a property is in the joint rateable occupation of more than one person, it is sufficient if only one of the joint occupiers is primarily engaged in the carrying on or directing of agricultural operations.

5. **“Whose primary occupation is the carrying on or directing of agricultural or, as the case may be, fish farming operations on that land.”**

Relevant NI case law is:

- VR/35/1988 John McCoy -v- the Commissioner
- VR/7/2005 Ian Wilson –v- the Commissioner
- HIG7511 Court of Appeal Ian Wilson –v- the Commissioner

In the third case, the Court of Appeal overturned the decision of the Lands Tribunal.

In the Court of Appeal in “Wilson” all three judges approved the approach of the then President of the lands Tribunal, His Honour Judge Rowland QC in “McCoy”. In summary Judge Rowland held that

“Occupation” means that which engages the time and attention of a person

- The Tribunal must ask in an objective way as a reasonable onlooker might ask of the appellant – what is your job? What engages your daily time and attention? Upon what business are you normally engaged everyday?
- If there are two occupations a further question must be asked : which is paramount or more important or, in short, which of them is primary?
- An objective inference must be drawn from the facts which are peculiar to the appellant personally as far as his livelihood is concerned?

The Tribunal in the “McCoy” case decided that the appellant’s job in the Civil Service was his primary occupation”

“It is his full-time job. It occupies by far the greater proportion of his time, attention and availability; it is pensionable It is a career in which

promotion is attainable and has been attained; it is a major source of livelihood; he must make himself available to do his job at regular specific hour's everyday and therefore it takes precedence over his farming activities. The purpose of this legislation is to extend relief to those whose livelihood is in the main derived from farming, even though engaged therein would be denied relief by inserting the word "primarily".

The Court of Appeal in "Wilson" criticised the Tribunal, whose decision they overturned, for taking a subjective approach. All three judgements pointed out that objective facts only had to be considered. The subjective view of the appellant is not relevant. As per Higgins L.J.:

"The member has correctly identified the test as objective but misapplied it. In taking into account the respondent's respective commitment to farming and his public appointment and which of the two was of more concern or importance to him, the Member took into account subjective matters and fell into error."

The Case of the Retired Farmer.

Relevant case law is Lewis –v- Tudge [VO] L.T. 4RRC 336 [1959].

The appellant ratepayer, a retired chartered surveyor, occupied a dwelling house in connection with 1.25 acres of fruit garden and 2.50 acres of rough pasture. The contention was that the carrying on or directing agricultural operations on the garden and pasture meant that the dwelling-house should be assessed as a farmhouse. The Tribunal held that the appellant's concern with agricultural operations was not subordinate or ancillary to any other occupation, since his retirement could not be said to be an occupation in itself, the house was therefore an agricultural dwelling – house.

Land Let on Conacre or Agistment Terms

In both circumstances a retired farmer or someone owning land but with another occupation might let land on seasonal terms – normally from March to October. The owner of the land and not the seasonal tenant is often responsible for drainage / fencing etc. and carries out this work during the winter months.

Comment

A landowner may still be carrying on or directing agricultural operations on land even though it is let on seasonal terms

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