THE WINE AND SPIRIT TRADE ASSOCIATION

## Fine wine: Capital Gain Tax and Inheritance Tax

Advice found in the public domain in relation to Inheritance Tax (IHT) and Capital Gains Tax (CGT) as far as fine wine is concerned varies, greatly and leads to confusion for businesses and consumers. The document is provided as guidance and aims to clarify the situation.

## 1/ Inheritance Tax: wine valuation

Some traders and consumers may have been lead to believe that for Inheritance Tax purposes wine is valued at the purchase price rather than the value at the date of death. HMRC recently confirmed that this was incorrect and that for IHT purposes the value of any property is the price it might reasonably be expected to fetch if sold in the open market at that time.

***HMRC's clarification published in August 2010:***
'It has been brought to HMRC's attention that information in the public domain indicates that for Inheritance Tax purposes wine cellars are valued at the purchase price rather than the value at the date of death. This is incorrect.

Section 160 IHTA1984 states that for Inheritance Tax purposes the value of any property is the price it might reasonably be expected to fetch if sold in the open market at that time.

Therefore it is clear that a wine cellar must be valued at its open market value for Inheritance Tax purposes at the time of the relevant occasion of charge.'

Legal advice received by the WSTA has also confirmed this interpretation.

**References:**
Inheritance Tax Act 1984 - Section 160:
*http://www.hmrc.gov.uk/ihta/part_6_chapter_1/ihta160.htm#TopOfPage*
HMRC Trusts and Estates Newsletter August 2010:
*http://www.hmrc.gov.uk/cto/newsletter-aug10.pdf*

## 2/ Capital Gains Tax (CGT)

Depending on circumstances, fine wine may or may not attract CGT when it is resold. After receiving numerous queries on the subject, the following guidance was issued by Inland Revenue (now HMRC) in its Tax Bulletin 42:

'Where bottled wine is purchased, each bottle is a chattel for Capital Gains Tax purposes. As gains on the disposal of chattels which are also wasting assets are generally exempt from Capital Gains Tax, Section 45(1) Taxation of Chargeable Gains Act 1992 (TCGA), then the first question is whether bottled wine is a wasting asset or not.

For Capital Gains Tax purposes a wasting asset is one whose predictable life, from the point of view of the person acquiring it, does not exceed 50 years, Section 44(1)


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TCGA. Whilst **this definition would clearly apply to cheap table wine** which may turn to vinegar within a relatively short period, even in unopened bottles, our view is that **it would certainly not apply to port and other fortified wines** which are generally recognised to have a very long storage life.

Between these extremes, there are a number of fine wines which are quite drinkable after a substantial period […]. With these the basic consideration […] is whether the wine has turned to vinegar or has merely matured. […] in practice, most wine is drunk well below the age of 50 years and in that sense it is very difficult to consider the issue in isolation.

However, where the facts justify it, **we would normally contend that wine is not a wasting asset if it appears to be fine wine which not unusually is kept** (or some samples of which are kept) for substantial periods sometimes **well in excess of 50 years.**

**If a particular bottle of wine is not a wasting asset, then any gain accruing on its disposal may nevertheless be exempt where the disposal proceeds for that single bottle do not exceed £6,000,** Section 262(1) TCGA.

**Where however, a number of bottles are sold to the same person in one or more transactions, then the question might arise as to whether the bottles themselves constitute a "set". If they do, then the £6,000 limit would apply to the overall sale proceeds rather than the price fetched for any individual bottle,** Section 262(4). This is a question of fact and would depend on:

> (a) whether the bottles are "similar and complementary" - which would require the wine in them to have been produced from the same vineyard in the same vintage year, and
> (b) whether the bottles are of greater worth when sold collectively than when sold individually'.

**Reference:** http://www.hmrc.gov.uk/bulletins/tb42.htm

## 3/ Wine valuations: CGT exemption does not apply to IHT

There has been confusion about the fact even though some wines may not attract CGT, they may still attract IHT. HMRC's Trusts and Estates department offered the following advice in November 2010:

'CGT & IHT are two separate taxes and the position for IHT cannot be expressed anymore clearly than it was in our August Newsletter. Whilst it may be the case that some wines do not attract CGT (that this is because they are considered a "wasting asset"), there is no equivalent exemption for IHT.

Put very simply, IHT is charged on the open market value of all the assets that someone owns when they die - and if that includes a wine cellar or an investment in wine, it will be the open market value of the wine at the date of death that is liable to IHT.'

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