**TACS Partnership case study 1 – Private residence relief success**

The TACS Partnership (TACS) was recently approached by a small firm of accountants. One of their clients was under HMRC scrutiny over the sale of part of the grounds of their house.

Some years previously, the clients had bought a dilapidated hall in around five acres of park land to do up as their home. The cost of the restoration work proved to be beyond their means, and they decided a solution might be to sell of part of the grounds as building land to a property developer. Obtaining the necessary planning permissions and determining which parts of the site was suitable took some considerable effort, but eventually they sold various plots in the grounds. In due course, they submitted their self-assessment returns claiming private residence relief for capital gains tax purposes on the basis that the plots sold had been required for the proper enjoyment of their home, notwithstanding that the grounds exceeded the standard permitted of area of half a hectare.

HMRC opened an enquiry into their returns, initially arguing that the area sold was not required for the proper enjoyment of their home. HMRC brought in the District Valuer to assess the position. Fortunately for the clients, when the District Valuer carried out his assessment, he identified the specific areas of property which he thought had been required for the proper enjoyment of the hall and determined that the plots which had been sold and were now being built on had formed part of the required area, although he identified other parts of the property as so required. The plots sold were on each side of the drive, near the entrance. At this point, HMRC changed tact and started to argue that the sale of the plots was not a capital gain anyway, but a trading transaction. At this point the accountant referred the matter to us and TACS met with his clients.

Following a detailed review including the history of their ownership of the hall and the surrounding grounds, TACS analysed the badges of trade in some detail and prepared a detailed rebuttal to HMRC’s argument, explaining why this was neither a trade nor an adventure in the nature of the trade. Fortunately, our arguments struck home straight away. HMRC closed its enquiry without raising any further tax. Had TACS not been successful, the taxpayers would have been liable for income tax in excess of £200,000 on the sale of the plots. This could well have bankrupted them.