

SECTION 11 PART 1 - FINANCE ACT 1910

REFERENCE MATERIAL

Statute

Finance (1909 – 1910) Act 1910

Inspectors should be familiar with the following sections:

Sections 7 –10; 35, 37 & 38: Exceptions

Section 25: Allowable deductions

Sections 26 & 27: Valuation of land for the purposes of the Act

Section 30: Duties of Commissioners to keep records

Case Law

Robinson Webster (Holdings) Ltd v Agombar [2001] EWHC 510 (ch) (9 April 2001) – weight attached to evidence of non-inclusion of a route in the taxable land of a hereditament

Maltbridge Island Management Co v SSE (31/7/98) – whether weight may be attached to Finance Act evidence

Fortune v Wiltshire CC [2012] EWCA Civ 334 – significance of the exclusion of a route from adjacent hereditaments when weighed with all other relevant evidence

Other Publications

'Valuation Office Records Created under the Finance (1909-10) Act 1910', National Archives Information Leaflet no. 68

'Land and Society in Edwardian Britain', Brian Short, Cambridge University Press, 1997

Maps for Family and Local History, The records of the Tithe, Valuation Office and National Farm Surveys of England and Wales, 1836 – 1943, Geraldine Beech and Rose Mitchell, published by The National Archives, second edition, 2004

The National Archives Research Guide, National Farm Surveys of England & Wales, 1940 – 1943

The National Farm Survey 1941 – 1943; State Surveillance and the Countryside in England and Wales in the Second World War, Brian Short,

The following articles, which are of interest, have appeared in the RWLR

'Rights of Way and the 1910 Finance Act,' - Zara Bowles, RWLR Sept 1990 (see below at 11.2);

'Uncoloured roads on 1910 Finance Act maps,' David Braham Q.C. May 2002

GUIDANCE

Introduction

11.1 The 1910 Act provided for the levying of tax ('Increment Value Duty') on the increase in site value of land between its valuation as at 30 April 1909 and, broadly speaking, its subsequent sale or other transfer. There was a complex system for calculating the 'assessable site value' of land, which allowed for deductions for, among other things, *the amount by which the gross value would be diminished if the land were sold subject to any fixed charges and to any public rights of way or any public rights of user and to the right of common and to any easements affecting the land* (Section 25(3)).

11.2 Whilst numerous articles of relevance have appeared in the RWLR, 'Rights of Way and the 1910 Finance Act' by Zara Bowles (RWLR Sept 1990) provides a short overview of the Act in relation to public rights of way. However, some of the views and conclusions expressed should now be seen as questionable as subsequent research has informed general understanding of these records. Professor Short's book and the National Archives leaflet set the historical context.

Evidential Value

11.3 Evidence of the possible existence of a public right of way in Finance Act documentation usually arises in one of two ways-

- reference to it in one or more of the various documents forming part of the valuation process, or
- exclusion of a route from the assessable parcels of land shown on the map record.

Reference to a possible route in the documentation

11.4 An early part of the valuation process was the completion of a 'Form 4' by the landowner. This form asked whether the relevant unit of land ownership (these were known as 'hereditaments') was subject to any public rights of way or any public rights of user. Information from Forms 4 was copied into Field Books in the District Valuation Office before the valuers went into the field to inspect and assess the hereditaments. In these books, and in other forms such as Form 36, sent back to landowners with the provisional valuation, and Form 37, the office copy

of Form 36, the distinct categories were run together into 'public rights of way or user'. Information from the Field Books (which are kept in the National Archive at Kew), including deductions in value for 'public rights of way or user', was copied into the relevant columns in the Valuation Books, which are normally now found in Local Record Offices. Working plans (see below at 11.7), sometimes with detailed annotations, were completed in the field and the final record plans, which normally show only hereditament boundaries, were compiled from them.

- 11.5 Although direct evidence of the acknowledgment by a landowner of a public right of way from an entry on a Form 4 may be considered to be very strong, the vast majority of them were destroyed after the transcription of their information into the Field Books. However, evidence of the existence of a public way across a hereditament may be deduced from, for example, a Field Book entry showing a deduction under 'public rights of way or user', with further clear hand-written details, such as use of the words 'public footpath'. The position of such a way may be shown by annotations on the working plans or written information in the Field Book. But where hereditaments were large and crossed by numerous paths it may not be possible to conclude from written information that a particular route was referred to. Even where field plans are annotated, and paths marked as 'public', it may be unclear when and by whom annotations were made. Evidence from Field Books and plans may provide good evidence of the reputation of a way as public, but care should be exercised when drawing conclusions from material not known to be provided directly by or on the authority of the landowner.
- 11.6 It has been asserted that the term 'public right of user' refers to private rights of way, but, apart from some apparently anomalous entries on a few surviving Forms 4, there is no evidence of this use of the term. It would normally refer, when distinguished from a public right of way, to a non-linear public right, such as a right of recreation. A private right of way is normally a form of easement, and a deduction for such a way would be expected to be found under the heading of easements.

Exclusion of a route on the map record

- 11.7 Working copies of the plans are normally found in Local Record Offices. Most final record plans are in the National Archive. They are based on large-scale Ordnance Survey plans. The 1910 Act required all land to be valued, but routes shown on the base plans which correspond to known public highways, usually vehicular, are not normally shown as included in the hereditaments, i.e. they will be shown uncoloured and unnumbered. It is possible, but by no means certain, that this is related to s.35(1) of the Act: *No duty under this part of the Act shall be charged in respect of any land or interest in land held by or on behalf of a rating authority.* The practice would also be compatible with s.25(3) which states that *The total value of land means the gross value after deducting the amount by which the gross value would be diminished if the land were sold subject to... any public rights of way.* So if a route in dispute is external to any numbered hereditament, there is a strong possibility that it was

considered a public highway, normally but not necessarily vehicular, since footpaths and bridleways were usually dealt with by deductions recorded in the forms and Field Books; however, there may be other reasons to explain its exclusion. It has been noted, for example, that there are some cases of a private road set out in an inclosure award (see section 7) for the use of a number of people but without its ownership being assigned to any individual, being shown excluded from hereditaments; however this has not been a consistent approach. Instructions issued by the Inland Revenue to valuers in the field deal with the exclusion of 'roadways' from plans, but do not explicitly spell out all the circumstances in which such an exclusion would apply.

- 11.8 In his article 'Uncoloured roads on 1910 Finance Act maps' (RWLR May 2002) David Braham Q.C. considers the significance of exclusion of a route from assessable land. This approach received judicial endorsement in the case of *Fortune v Wiltshire CC [2012]* in which Lewison J gave careful consideration to the interpretation of routes excluded from adjacent hereditaments. In essence he concluded that the Finance Act records are not definitive; they are "simply one part of the jigsaw puzzle" to be considered along with other relevant material particular to each case.

Concluding Comment

- 11.9 Documents and plans produced under the Finance Act can provide good evidence regarding the status of a way. In all cases the evidence needs to be considered in relation to the other available evidence to establish its value; this is particularly important where a deduction for a public right of way is shown in the Finance Act records but its line is not apparent. It should not be assumed that the existence of public carriageway rights is the only explanation for the exclusion of a route from adjacent hereditaments although this may be a strong possibility, depending on the circumstances. It must be remembered that the production of information on such ways was very much incidental to the main purpose of the legislation.