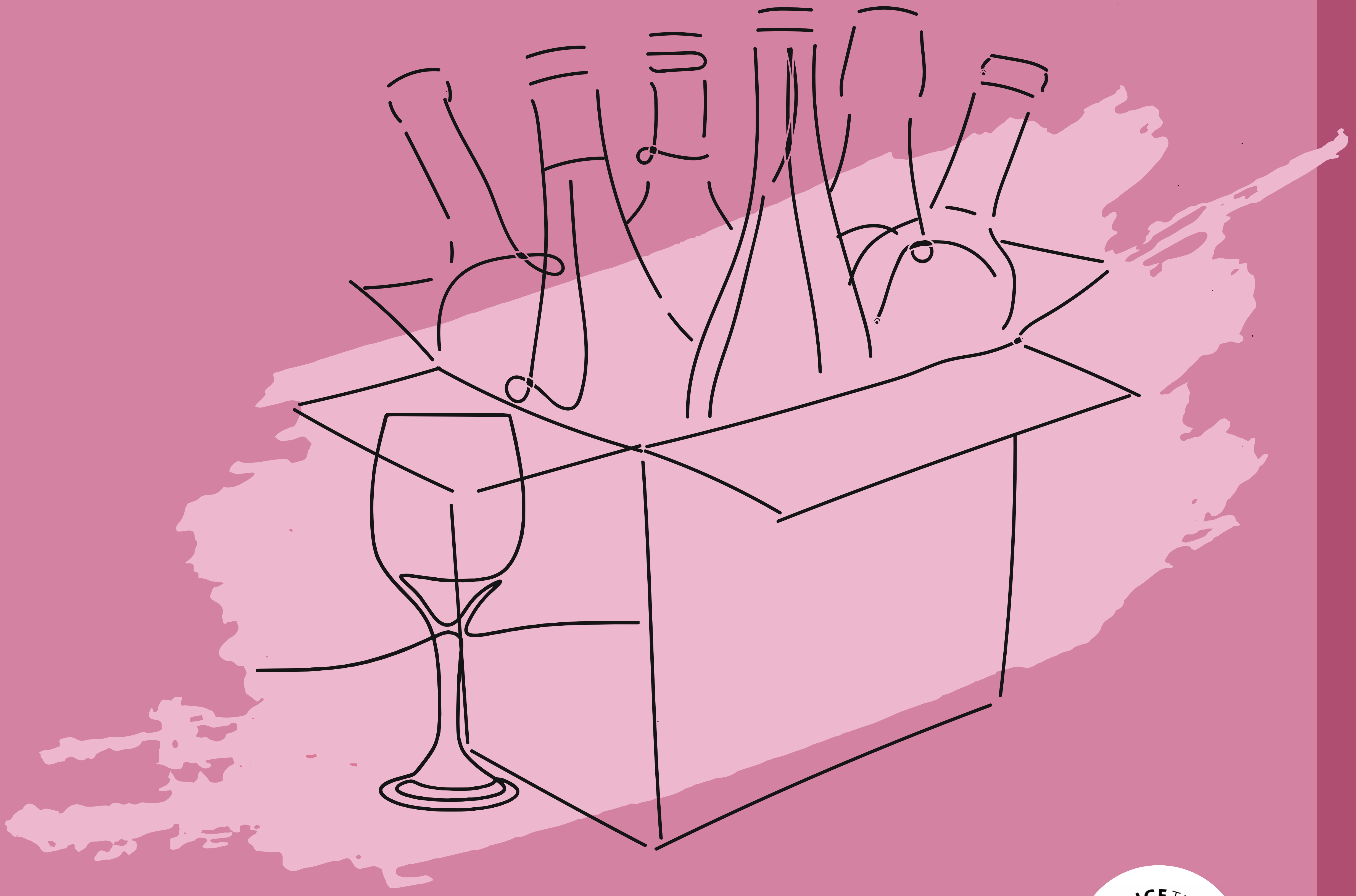
Tax Report

The Tax Landscape for Fine Wine Investors in 2024

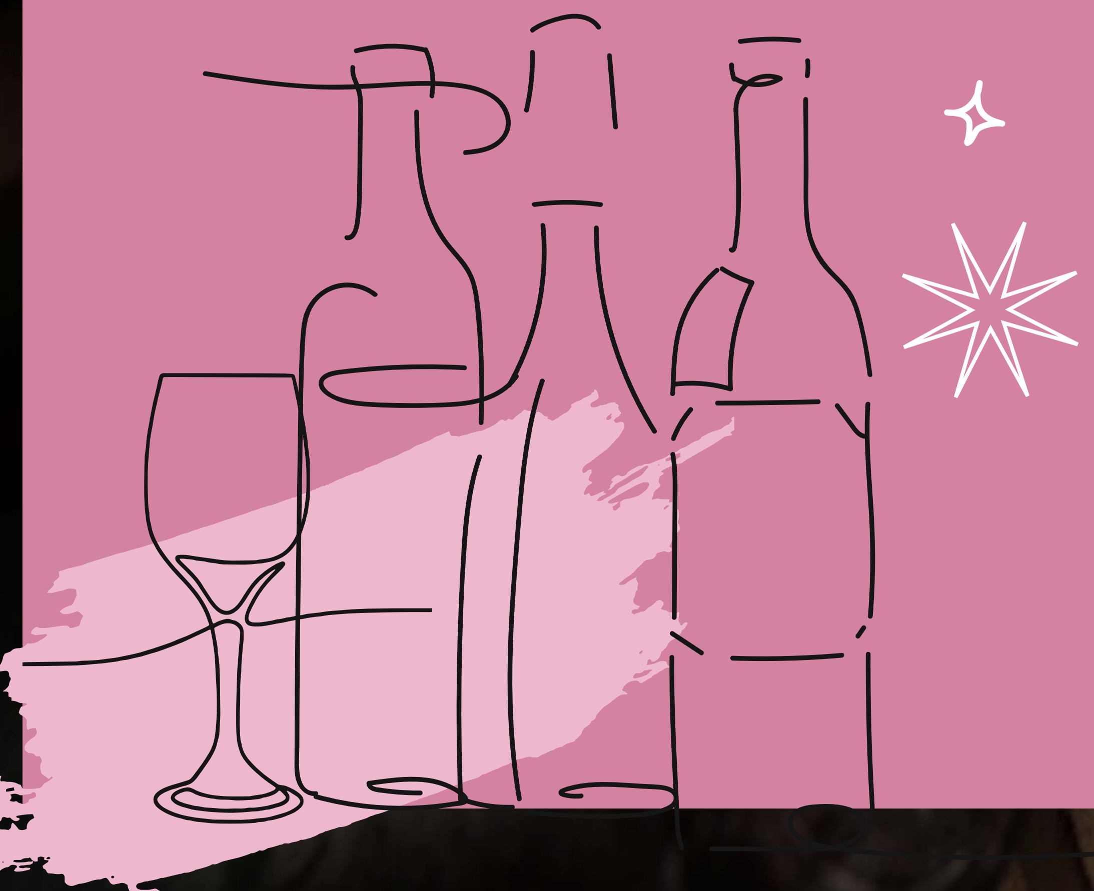


Basic considerations

Before delving into the various taxes, it’s necessary to consider the motivations forpurchasing fine wines.

For example, if you are purchasing wine simply to enjoy it some yearslater when it has reached it has reached its predicted best then taxes will not be applied, irrespective of how much you have saved over and above buying the same vintage later and simply drinking it.

The same applies to a scenario whereby youmight buy and sell wine to diversify a holding before actually enjoying the wine, providing we can take advantage of the Chattels or Wasting Assets exemptions for Capital Gains Tax purposes. The key here is staying within the remit of Capital Gains Tax.



To take this analogy further we need to consider an investor looking for capital growth over a period of time.

One who establishes an initial portfolio and adds to it over time, buying and selling certain vintages from selected vineyards to improve the balance and likely returns of the portfolio. In this scenario it is probable that the individual would sit within the remit of Capital Gains Tax. This is because the buying and selling under these circumstances is not trading for profit, but partof an investment strategy, much the same asmanaging a portfolio of shares, for example. Naturally, an investor looking to buy and sell wine in a shorter term with the aim of making profit as tradable stock and not just an investment asset is different. This individual's circumstances would not fall within the remit of Capital Gains Tax and will be subject to Income Tax.

Most people investing in fine wines will be concerned only with Capital Gains Tax on sales. However, individuals with significant volumes of trades may wish to seek expert advice to ensure that they do not slip inadvertently into what would be considered trading. It's conceivable that an investor could transition into a trader if their motive for holding the wine changed.

Though, I'm reminded of a conversation I had with a senior partner at the firm of chartered accountants I trained with in the 80's. They explained that the trick was to buy two cases to lay down - one case to be drunk and the other to be sold. The one that was sold would fund two further cases to be laid down on a six year cycle. What was the motive behind buying the second case – investment or trading? I suspect that the here the reality of selling rather than consuming was largelyacademic.

Capital Gains Tax

Most, if not all transactions by investors in fine wine will be subjected to Capital Gains Tax.

For fine wines and fortified wines with an expectedlife of 50 years or more - or where an individual bottle or 'set of bottles' is sold after 5 April 2016 for more than £6,000 - gains will be taxed at 20% for a higher rate tax

Two significant exemptions exist and are much used by investors in fine wines: the Wasting Assets and the Chattels Exemptions. For wines to be classed as Wasting Assets, they need to have an expected life at the time of purchase of no more than 50 years – something that has been widely written about. HMRC see the test as a means of finding particular fine wines that are regularly kept for more than 50 years, and make the case that this will be the normal assumption for fortified wines.

But as this is a relatively grey area, advice given on the expected life of a particular vintage should be sought at acquisition, as contemporaneous evidence from a respected specialist at the time of acquisition is a powerful defence if challenged by HMRC. Where the Wasting Assets exemption is not available the sale of individual bottles, or sets of bottles for less than £6,000, should fall within the ChattelsExemption.

'Sets' are generally taken to be two or more assets sold to the same person, where the value of the set is more valuable than the sum that could be obtained from selling the bottles individually. This would apply in many scenarios where individuals are selling a case or a half case at a premium as opposed to one bottle at a time. But again; obtaining advice at the point of sale would be wise.

Income Tax

Income Tax on profits will only be applicable for individuals who are actively trading wine with a view to make profit, as mentioned. Income Tax on such profits would be levied at an individual's marginal rate up to 45%. But, losses can be offset against profits or in some cases offset against other income. Most wine investors are unlikely to be treated as traders, unless you are a high profile individual who has publicly declared your intentions to invest in wine as a profitable pursuit.

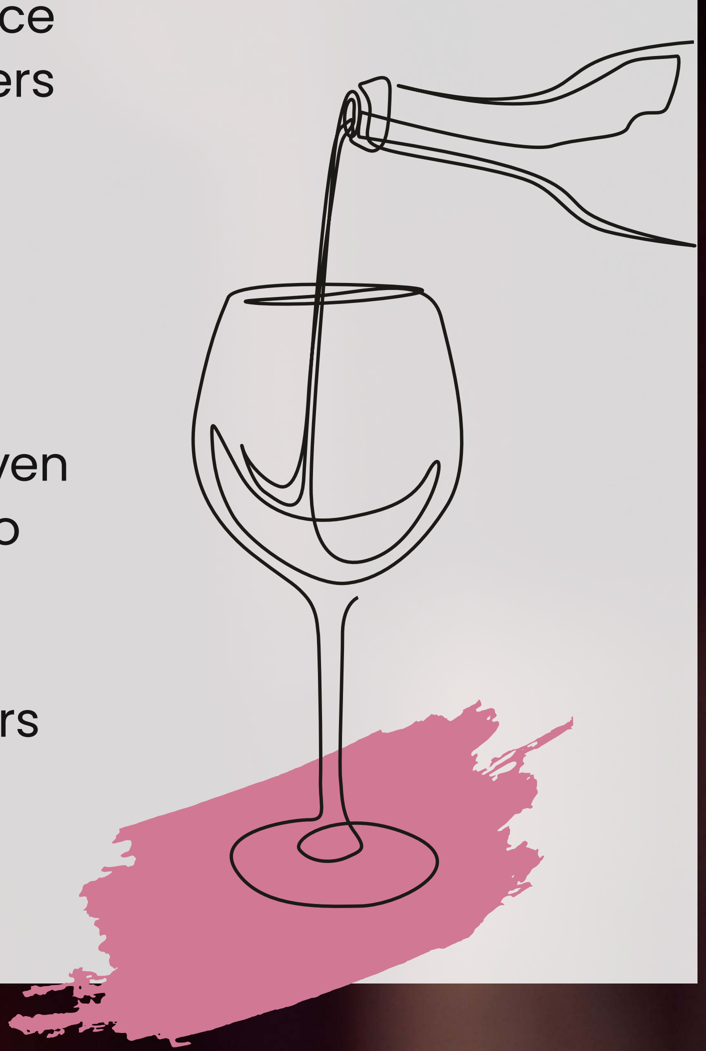
Inheritance Tax

There are no special Inheritance Tax advantages in holding a portfolio of fine wines at death. The portfolio will form part of your estate at its then market value, irrespective of the cost you incurred in establishing the portfolio.

However, if you were considering making life time gifts with a view to making Inheritance Tax Potentially Exempt Transfers, then wine may be an ideal asset if each of the transfers fall within either the Wasting Assets or Chattels exemptions.

Other than cash, a transfer of an asset by way of gift usually gives rise to a Capital Gain. Handing down a wine portfolio and educating the next generation of fine wine enthusiasts may well be an enjoyable way of sharing time with sons, daughters and grandchildren whilst managing the value of your estate. And providing you survive seven years from the date of the transfer, the Potentially Exempt Transfer will not be subject to Inheritance Tax.

If however, you were to die before the 7th anniversary of the gift, then any liability tapers on a sliding scale between years three and seven, but any growth in value in this time would be outside your estate.

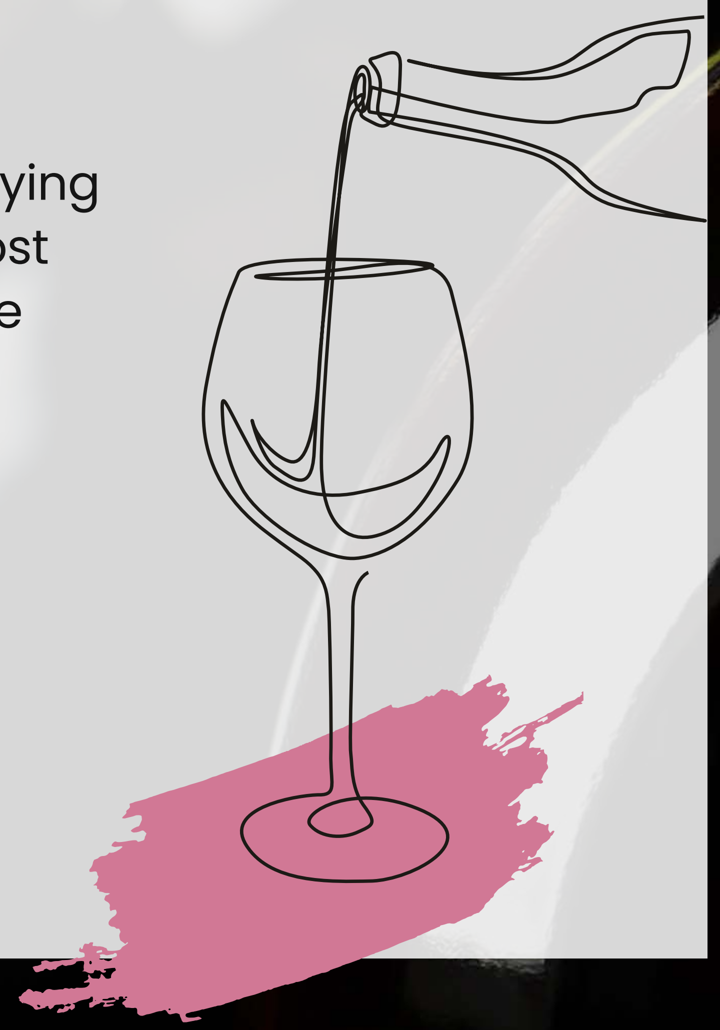


Other Tax reliefs

For individuals who wish to invest in the fine wine or drinking wine sectors, there are a number of opportunities available to invest in companies. The individual may also be able to take advantage of the Seed Enterprise Investment Scheme (SEIS) and the Enterprise Investment Scheme (EIS). SEIS and EIS investments can attract valuable Income Tax Reliefs on investment and Capital Gains Tax exemptions on sale.

A cash investment is required to make any reliefs available, which is made by way of a subscription of shares by a qualifying individual with qualifying shares, in a qualifying company. The shares in question must be held for at least three years. All reliefs are lost or clawed back if the company ceases to be a qualifying company or if the shares are sold before the three years is up.

If SEIS or EIS is not available, a new relief will be available for individuals who subscribe for shares in trading companies subject to certain conditions. This allows a sale of these shares to attract a10% rate of Capital Gains Tax, providing the shares are held for at least three years. This relief was announced on 16 March 2016 as part of George Osborne’s budget.



Summary

With care, a well-managed portfolio of fine wines canattract valuable Capital Gains Tax reliefs.

Individualsmakingmany purchases and sales of wine should be cautious not to be assumed as traders, and they can do so by seeking expert advice and guidance. Without planning, Inheritance Tax is an issue for investors, but the ability to make Potentially Exempt Transfers should not be discounted, nor the fact that a portfolio of wine should be easily turned to cash by an executor. So, apart from the tax, the asset is not a problem in itself.

It should be noted however that each individual's circumstances will be different and will thus affect how the individual is taxed. Individuals should only treat the above as a general guide. Investors should always seek their own professional advice in deciding how anyparticular transaction or series of transactions ought tobe taxed.