



## Nail on the head – farm land soon to lose IHT exemption?

Much has been written about the risk to Inheritance Tax relief on farmhouses following the latest McKenna case and linking the now well known facts of Antrobus. This must surely be just the tip of the iceberg and with the Exchequer in search of revenue, avoiding Inheritance Tax can no longer be taken for granted.



Mike Butler Old Mill  
Rural Services Partner

With regard to farm houses, only the most genuine farming cases can carry any degree of certainty when it comes to claiming IHT relief and for those employing contract farmers, even the most robust contract farming arrangement is likely to come under extreme scrutiny if a case finds itself before a tribunal. Land Agents in particular must prepare for this eventuality and advise accordingly. Land owners and farmers must be willing to accept the risk. Certainly anyone acquiring land with a view to sheltering Inheritance Tax must proceed with extreme caution and only accept this relief as a result of well chosen tax planning and indeed then, only as a bonus.

Even the most genuine working farmer can expect problems and they should anticipate up to 30% of the value of their working farm house to incur Inheritance Tax following the implementation of the Antrobus II decision. The key point is that Agricultural Property Relief, the IHT relief generally available to agricultural assets, only extends to the agricultural value of that asset. Agricultural value is broadly defined as the value of an asset as if it could only be used for farming purposes and carried such an onerous restricted covenant. In the Antrobus II decision, the excess value of the farm house over and above its agricultural value amounted to 30% and the estate was taxed on this surplus.

Perhaps more interesting, is the potential application of the Antrobus II decision to farm land itself. Many farmers comment that they cannot afford to buy land now because of the amenity premium. It must be a risk for those acquiring land at such a premium that valuation of farm land on death may well contain a significant excess over and above its' agricultural value. As such, this excess will not be covered by Agricultural Property Relief and therefore potentially subject to Inheritance Tax.

The more that is written about high land value and the more land is marketed and sold for its amenity value rather than its agricultural value, the greater the risk that the Capital Taxes Office will begin to identify this as an area for rich pickings.

Don't be fooled into thinking H M Revenue & Customs will show leniency in these matters. Recent Inheritance Tax cases and indeed the Revenue's approach to VAT (and in particular shooting), is a clear demonstration that duty recovery is their primary aim and that this will be achieved by whatever means are available to the tax authorities. Perhaps now, more than ever is a time when we can truly say Inheritance Tax is payable by the ill advised. We strongly advise all farming families to seek advice and protect your valuable family farming assets.

*Mike Butler, Partner*

## Youthful enthusiasm moves dairy farm forward

If we believe what we read the Dairy farming industry is in terminal decline with only the ageing farmers with nothing better to do hanging on. Meeting Adrian Ashley at Lower Tunley Farm near Bath is an absolute breath of fresh air. He shows what youth, enthusiasm and determination can do when combined with some focused thinking about what the future holds for him and his family.



James and Adrian Ashley at home on Lower Tunley farm

Adrian was just 17 when his father died tragically young five years ago. His brother James was 20 and baby brother Liam just two months. The family farm was a traditional dairy farm of about 100 cows and it was soon obvious that to support the three brothers mother Cheryl and Grandmother it was going to have to grow.

With plenty of energy the first move was into contracting but with rising fuel prices, replacement machinery costs and some bad debts it became apparent that this was not the way forward. About 18 months ago they reassessed their situation and decided that really the

farm was about grass and cows. Dairy farming was the way forward for them.

They made the brave decision to invest in a new milking parlour. Around £15,000 was saved by doing most of the building work themselves, and the parlour was completed in June 2006. This has been used as the springboard for improved herd performance and increasing the herd size. They also started a policy of putting a Holstien bull on their cows and the spring sees the arrival of the first batch of home reared heifers into the herd. This is seen as a longer term way of increasing the herd without incurring increased replacement fees.

Although some machinery purchase costs from the contracting era are still working their way through the system they are now running a very tight ship. All labour is provided by the two older brothers. James does the feeding and Adrian does the milking and with the help of his girlfriend they do NMR recording and computerised herd performance monitoring. Since the installation of the new parlour the cell count has fallen and they achieve a 365 day calving index. At around 7,000 litres per cow they have no intention of chasing high production levels. They feed grass and maize silages and cake in the parlour. It is a simple system but inexpensive to operate. Personal drawings are kept to a minimum.

They do invest in a monthly visit from the vet, Simon Wilson, of the Shepton Vet Group. He is a young vet who is sympathetic to what they are trying to achieve and they feel they are working well with him. They are also full of praise for the role played by Mike Butler as their accountant. Adrian says 'Mike always has time for us and points us in the right direction. We find his input really useful.'

Mike is likewise extremely complementary about the progress the boys are making, 'It is great to see enthusiastic young dairy farmers. Even with a milk price of only 17p they are making progress and building a secure business for the future. If only we can get the milk price up this is a business that will really kick on. I want to see UK farmers survive and more importantly prosper.'



# Don't let the tax man steal precious arable profits

With the current rise in commodity prices it is inevitable that tax liabilities on profits for some farmers will also increase. While many arable farmers will be looking to replenish depleted financial reserves, paying extra liabilities to the tax man will provide no benefit to the family business as a whole. The only solution is for farmers to look to mitigate their tax in good time to avoid missing out on any opportunities.

For many farmers the fear of paying tax can often result in the unnecessary replacement of farm machinery. In certain circumstances this may be appropriate, however there are other more useful ways of mitigating tax without consuming precious capital. For example, taking advantage of revised pension rules, particularly in terms of the new regulations allowing flexibility with Self Investment Pension Plans and higher contribution limits.

Business structure considerations in terms of reviewing partnerships and looking to operate as limited companies, are all factors to be considered even the use of a corporate partner can give significant tax advantage in the right circumstances. Farmers'



Averaging can also provide some opportunities, as can the timing of income recognition in terms of Single Farm Payment and the timing of crop sales.

It is possible that higher commodity prices will last and there is also the potential for reasonable contracting profit shares, both of which will make tax planning vital to all arable farmers. It is essential that tax planning takes place during, and not after the accounting year, as many mitigation decisions will need to be undertaken before the year end.

Now that most of the harvest has been sold a firm prediction of profits can be obtained. Any work on autumn plantings will only form part of a valuation for the following year and therefore will not affect the current year's profits. In order to avoid any unwelcome surprises in the future we suggest that all arable farmers work with their accountant to assess their level of profitability and take action now.

---

## Tax tip from Richard Haines

Many farms have diversified into B&B – a useful source of income using largely existing resources.



Richard Haines

However be aware that local authorities may turn around and say that the farmhouse has become business premises and rate it as such.

Richard Haines has been looking for guidance and it seems that the point at which the rating officer becomes interested is when there are more than six bed-spaces to let. This could be as little as three double



bedrooms and some farmhouses have the capacity for more.

We have seen recent cases where business rates have been applied to the proportion of the farmhouse which has been let for B&B. This may need to be a serious consideration when deciding whether such an enterprise is viable.



## Trust me – I am old enough now! Plan now for farm succession

The timing of succession in farming families is always difficult and with older generations living longer and the frequency of divorce increasing, the timing of passing down assets can be a difficult decision to make.

On one hand the increasing pressure from the tightening Inheritance Tax regime means that succession planning is vital, even for the most genuine working farmer case. No longer is it possible for land owners to assume their assets will be free of Inheritance Tax, even if they are farmed in hand. Antrobus II has indicated that potentially 30% of the farm house value may not be subject to any relief at all and for farm houses with a high value, this potential duty could be significant.

Encouragement of the next generation is also a vital component to successful succession planning. In many circumstances, the next generation may have spent 20 or more years working in the family business before they ever get any control over the assets themselves and that length of time must be considered a long apprenticeship even by farming standards!

However, tempered with this is the risk of attack on family assets, particularly from divorce. Our experience is that divorce can happen in any age section. There may be as much risk of an older couple splitting once the children have grown up as there is for a young son or daughter to split shortly after they first marry.

In addition, the unexpected death of a spouse in an older relationship can expose family assets, particularly if the remaining spouse wishes to build a new relationship with someone outside the family. All sensitive areas are often best dealt with by planning in the first instance rather than to try and address the issue when the family situation is fuelled with emotion and sadness following a tragic event.

Gifted assets may mean passing them down outright to the next generation. However, the use of trusts should not be overlooked, particularly Discretionary Trusts. These can be used to hold assets for a period of time outside of everyone's estate but under the controls of well trusted trustees. Of course tax considerations are important but generally structures can be arranged tax efficiently when agricultural property is being considered.

Certainly the use of trusts instigated on the death of a tax payer can provide a useful extension to protecting the assets for a certain period after the tax payer has died. There is one word of warning here, for those seeking to tie up assets long after they have passed on, anticipate that this will place undue pressure on your family if not dealt with correctly – a legacy I am sure many will not wish to leave.

Failing to plan is planning to fail and that is certainly the case with it comes to succession planning. Take advice and put the planning in place. You never know, you may even feel better for it once you know your house is in order!



## Incorporating the Tax Credit benefits

Working Tax Credits and Child Tax Credits may seem to many to be state benefits, the receipt of which is somewhat taboo. However, with many young farming families only able to draw modest amounts from the businesses, tax credits can provide vital additional funds in these challenging times.

For the person farming as a sole trader or in a traditional farm partnership the problem often occurs where individuals may only have modest personal drawings but total farm income is somewhat higher. Money may be re-directed to expand the farming

business or servicing debt but unfortunately only the total income is of relevance in terms of assessing the level of tax credits paid.

By transferring the trade to a limited company or perhaps as an intermediary step of introducing a limited company to the farming partnership, individuals can tailor their own personal income needs. In many instances, with exactly the same drawings as before, they can qualify for quite significant tax credits.

It is important not to manipulate figures merely to claim Tax Credits. By doing so tax payers may be in trouble with the Tax Authorities. However, where profits need to be generally re-directed into alternative areas, then the of a limited company to conduct business will help in this scenario. It is always sensible for the "partner" to take a realistic share of income for their efforts and the advice must not be to distort profit shares merely to claim Tax Credits.

## Coping with Christmas – farm shops learn to cope with increasing trade levels

'A farm shop is not just for Christmas' must be a message that many farm shop owners feel like shouting during these grey days of January and February.

However talking to some owners they are actually grateful for a bit of a lull – the general feeling is that the run up to Christmas was 'manic'. M&S food may have reported an increase in trade of 5.4% but the impression you get from the farm shops is that for them it was well in excess of this.



Ruth Kimber

For Paul and Ruth Kimber of Higher Stavordale Farm near Wincanton this was their first retail Christmas. Building on sales for home produced meat products at farmers markets' and at the farm gate, they only opened their farm shop in mid November. The run up to Christmas was everything they could have hoped for and more. They were delighted to find that their best selling lines were still their home produced products – particularly bacon and chipolatas. Fruit and vegetable sales were much higher than expected and they ran out of milk and cream.

For Paul and Ruth Kimber of Higher Stavordale Farm near Wincanton this was their first retail Christmas. Building on sales for home produced meat products at farmers markets' and at the farm gate, they only opened their farm shop in mid November. The run up to Christmas was everything they could have hoped for and more. They were



Hannah Kimber hard at work

Ruth says 'the biggest day was turkey day when it just went mad. We handed out mulled cider to the waiting queues and there was an excellent atmosphere. Overall we have to look at the whole Christmas period as a very steep learning curve.'

Andy and Tish Jeffery at Farringtons near Midsomer Norton are older hands. They also reported extremely busy trade but were pleased with the way that improvements they had put in place helped to cope with increased trading levels.

Andy comments, 'A couple of years ago we had queues of cars blocking entrances and exits. In fact on one occasion I had been riddling some urgently needed potatoes and could not even get back into the shop with them.'

Over the years they have introduced improvements. This year a framework to hang up Christmas trees so they can be seen better along with an extra netting machine. Allocating the needed number of staff at busy times helped to keep things moving. They also shut the café for three days and used this as a collection centre for meat and turkeys making it an oasis of quiet, relieving the pressure within the shop.

Although Farm shops want to ensure an all year-round trade to be successful businesses. Shops also need to learn how to capitalise on the potential of seasonal peaks – Christmas probably being the biggest opportunity of the year. Planning is needed now as to how to maximise sales at Easter.



Andy and Tish Jeffery

## Do you really get advice?

**Accountants can sometimes be their own worst enemy. The profession traditionally gets labelled as grey, unadventurous, sometimes expensive, and on occasion, working for the tax man.**

When you do find an accountant that actually gives you advice, it is a breath of fresh air and if they can do it in an up beat manner with your family's success close to their heart, and occasionally with a laugh along the way, then all of a sudden you no longer have an accountant but you have a business advisor and real ally. You should always have an annual meeting not only to discuss the accounts but also the key things on your mind both at the time and looking to the future. On virtually all occasions those meetings will take place on farm because it is an area that you actually get "beneath the skin" and look at the real issues.

You should also have continued contact with your accountant throughout the year. Ad hoc advice should cost you no extra and should be factored into the annual fee. At Old Mill Rural Services we actually encourage clients to keep in touch because it is only at the time decisions are being made that support can be given and where appropriate tax planning advice considered.

Drawing up business plans, working on succession strategies, dealing with cash flows, particularly at times of investment, are all areas which you should be considering. In fact your accountants should be considering this in full and explaining the benefits that may be delivered to you.

A short meeting prior to the end of your year is invaluable in terms of determining the most tax effective strategy moving forward. This is one thing we can certainly ensure. The small additional cost associated with this can be saved many times over when it comes to tax planning. We are now in a particularly aggressive tax era and no farmer can afford to keep their head in the sand.

## Contact Old Mill Rural Services

**Ian Sharpe and Richard Haines**  
The Old Mill, Park Road, Shepton Mallet,  
Somerset BA4 5BS tel: 01749 343366  
email: sheptonmallet@oldmillgroup.co.uk

**Mike Butler and Neil Cox**  
Number One Goldcroft, Yeovil,  
Somerset BA21 4DX tel: 01935 426181  
email: yeovil@oldmillgroup.co.uk

**Mike Butler and Andrew Vickery**  
Berkeley House, Dix's Field, Exeter,  
Devon EX1 1PZ tel: 01392 214635  
email: exeter@oldmillgroup.co.uk

**[www.oldmillgroup.co.uk](http://www.oldmillgroup.co.uk)**

The content of this newsletter is for general information only. It should not be relied on and action which could affect your business should not be taken without appropriate professional advice. Please contact your usual Old Mill contact or local Old Mill office.

**[www.oldmillgroup.co.uk](http://www.oldmillgroup.co.uk)**