

Summer 2009

Client update

Writing down allowance extended to 40% for the current year

Those farmers with significant capital expenditure planned this year will be relieved to know that the rate at which relief can be obtained on plant and equipment, once the £50,000 100% band has been used, has been increased from 20% to 40% with no ceiling. It is important to note that this concession is due to end in April 2010 and therefore anyone planning material equipment additions should consider bringing those purchases within these timescales.

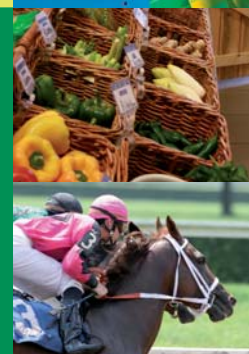
Big Problems with furnished holiday lets

As a result of pressure from the EU, the Government has taken the opportunity to restrict Income Tax reliefs and Capital Gains Tax reliefs of furnished holiday lets, effectively stripping away those special reliefs that were available for holiday lets over and above those from conventional lettings. In particular clients will notice the loss of Entrepreneurs Relief and Rollover Relief for Capital Gains Tax purposes and, in addition, the loss of some of the claims that can be made against income for Income Tax purposes.

For Inheritance Tax, clients must be aware that the circumstances in which Business Property Relief will be available for holiday lets are very rare. Only where the holiday lets are run as a genuine business, much akin to that of a hotel where the proprietor is on hand to service a visitors needs on a day to day basis, will there be any likelihood of relief. Simply allowing visitors to enjoy the property for a week and then changing over and cleaning the premises at the weekend ready for the next occupant is almost certainly unlikely to pass the test for IHT Relief.

Capital Taxes Office scrutinising APR claims closely

We have direct experience of the Capital Taxes Office asking extremely detailed questions regarding the



administration of taxpayer's affairs when they die. In particular the Tax Office are very interested in how the deceased's agricultural property has been used and most specifically what involvement the deceased had in running the business in the two years prior to their death. Clearly there is an ongoing attack on farm houses where there has been anything other than specific day to day involvement in the business and this must therefore increase the questions that need to be asked regarding those that run their land using contract farming arrangements. There is perhaps more scope now to look back at the old Share Farming Agreements which may provide a more robust approach to this sort of attack.

Farm buildings and APR

Perhaps more alarmingly, tax payers are being attacked where their estate includes farm buildings that may not have any significant farming use in the two years prior to their death. In particular, we are looking at redundant and traditional farm buildings where perhaps their value is high because of their intrinsic nature although their agricultural use is limited because of size, age or indeed their particularly high value. Regrettably, the Tax Office take the view that, if the building is not being used for any particular purpose, it is not going to qualify for the relief and therefore its' value will be subject to Inheritance Tax at 40%.

Clients who have such traditional farm buildings must either ensure that they do have occasional farming use or, if not, should ensure that they are passed down to future generations well before the death of the owner. However, avoiding Capital Gains Tax on lifetime gifts through Holdover Relief may be more difficult if the property itself does actually qualify for Agricultural Property Relief at the time of the lifetime gift. It is therefore particularly important to consider this matter where a building is likely to become redundant for use but at the moment would still qualify.



No news on income shifting

This year's Budget contained no news with regard to Income shifting and therefore clients must consider the utilisation of all opportunities in terms of farm constitutions including the use of corporate partners to minimise overall tax liabilities.

Falling profits – time to reduce tax payments

Those farmers who anticipate that 2009/10 will see incomes fall will have the opportunity to reduce their payments on account, such that they avoid paying tax on account of that year as if they are going to make the same profit as they are in 2008/09. Many of the accounts being produced for 2008/09 actually show a strong year, particularly in the livestock and dairy sectors. Whilst many clients will deny the presence of significant profitability, the tax bills will bring home reality. However, with the falling milk prices combined with costs that seem not to have fallen at quite the same rate, there must undoubtedly be scope to look at reducing payments on account next January and July. This is something that we will be happy to deal with as part of our normal management accounts process.

One year opportunity to get last year's tax back

Farmers are fortunate enough to have certain tax reliefs, including farmers averaging which allow them to look into the previous year's tax bill and, where appropriate, recover tax. For those that are paying higher rate tax on 2007/08 profits, careful planning for 2008/09 may have given the opportunity to recover some of the previous year's higher rate tax. The same of course applies for the next year on. If you are faced with a higher rate tax bill for 2008/09 and you have not made the appropriate planning moves such as pension contributions, etc, at least, as farmers, you can rest assured that you can look at planning your 2009/10 year in such a way that you may be able to recover tax from earlier years. That also includes, the timing of repair expenditure and indeed capital acquisitions as part of that planning process.

Should you recover VAT on let building expenditure?

H M Revenue & Customs are currently visiting farms checking this very point. The broad answer is no. If you rent out a building then you shouldn't recover any VAT on costs associated with that building. However, there

are two main caveats. Firstly, if the rental income is banked as part of the overall farming business and the expenditure incurred on the rental properties is modest then generally up to £625 worth of VAT can be recovered each month on average in terms of VAT on let property expenditure. However, if that threshold is breached or indeed if there is insufficient input VAT on the actual farming operations then the claim can fail in total and no VAT should be recovered. Consequently you need to look at this as your year progresses rather than assume that you are safe recovering VAT as you go along.

The second situation is where you have chosen to opt to tax commercial buildings and are subsequently charging VAT on the rent. In those circumstances you are entitled to recover the VAT on the commercial costs. Those that have already recovered the VAT on converting buildings to lets through their farm VAT return, but who have not opted to tax may be in serious trouble. It may be that time borrowing will prevent a correction of the situation in terms of trying to recover the VAT on the conversion costs, even if there is an election to opt to tax now.

Remember doing nothing is not an option. The penalties for evading VAT are particularly serious and can involve custodial sentences.

Check VAT situation on exported machinery

A number of farm machinery dealers have been taking advantage of the relative weakness of sterling to export machinery. This is fine but they do need to make sure they correctly cover the VAT aspects correctly.

Firstly, it is crucial to ensure that the overseas buyer is VAT registered and their VAT number, including the two letter country prefix appears on the sales invoice.

Secondly, the seller must retain commercial evidence that the goods have actually left the UK. Usually a single document will not suffice – a combination of documents may be needed to provide clear evidence of removal.

On top of this there are a number of special rules that apply. VAT inspectors have been quite active in following these matters up. If you have any queries please phone our VAT specialist Mark Peters on **01392 214635**.

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