



Introduction & Welcome

As farmers begin the 2011 harvest, we hope the weather will be settled. Let us also hope prices remain buoyant to offset the reduced yields that are anticipated.

We are currently busy working with clients:

- To minimise tax liabilities following the better 2010 harvest - hopefully this challenge will continue!
- Planning to make use of the generous machinery allowances, which are being cut from March/April next year.

- Considering incorporation, to make use of lower corporation tax rates.

I hope you find our summer newsletter useful. Please get in touch if you need any help – remember we do not charge for telephone calls!

John Thame

How to successfully use inheritance tax reliefs

Two brothers, farming in partnership, let out property to try and increase income. Commercial premises have been suffering of late but residential premises have been in demand. As this property is not 'agricultural land', within the Inheritance Tax (IHT) meaning, neither type of property will qualify for agricultural property relief (APR). Therefore an IHT charge of 40% would be levied on part of their estates upon death. Fortunately, careful tax planning has avoided this tax charge.

A few years ago, as part of this tax planning, we spent some time obtaining valuations, reconstructing the partnership balance sheet in the financial accounts, and advising on amendments to be made to the partnership agreement.

Sadly, one of the brothers passed away. He left his interest in the partnership to his brother. We valued the business and presented the inheritance tax returns to HM Revenue & Customs. We were successful in claiming APR on farmland and buildings, and Business Property Relief (BPR) on the remaining partnership share. Our careful tax planning enabled us to show the let property was intrinsically part of the business, saving tax of £180,000!

There have of course been legal cases, such as Farmer and Brander, that found in favour of the taxpayer. Having been in protracted discussions with HM Revenue & Customs in the past over what is, and is not, partnership property when seeking to claim BPR, we believe we know how to avoid this IHT bill. We share these ideas with clients as a matter of course.



Renewable energy schemes



Hot Topic

The introduction of Feed-In Tariffs (FITs) and the Renewable Heat Incentive (RHI) has led to increased interest in renewable energy production. Many landowners have been approached by companies wanting to install systems on their land and buildings, but whether you are considering installing a system yourself, or letting a third-party use your property, there are several points you should consider.

The ultimate diversification

Producing your own power could save your business money in terms of reduced energy bills, whilst providing security for the future - reducing business energy costs and providing a steady income from the FIT/RHI. This could assist with budgeting and make your business less sensitive to volatility in the energy markets.

When is a farmhouse not a farmhouse?

This is a question that continues to concern farming families and their professional advisers when considering inheritance tax. If HM Revenue & Customs (HMRC) accepts your house is a 'farmhouse', up to 100% of its value could be sheltered from inheritance tax.

A recent tax case concerned a Mr Golding, who farmed 16.29 acres. Mr Golding's executors claimed agricultural property relief from inheritance tax on a three-bedroom farmhouse, outbuildings and the land. HMRC dismissed the claim, but the executors appealed. The Judge allowed the appeal, on the basis that the farmhouse was of a character appropriate to the 16.29 acres.

The 'character appropriate' test is based on a number of factors, which the judge would

Main areas to consider

- VAT – can you reclaim the VAT on the installation costs? This may depend on the energy usage, how you invoice for the energy and the business structure.
- Income tax – will the income be taxable? Can you benefit from capital allowances? This may depend on the timing of the project and business structure.
- Capital gains tax – what if you decide to sell the land involved in the project? The correct business structure from the start may enable you to claim Entrepreneur's Relief, with capital gains tax chargeable at 10% rather than 28%.
- Inheritance tax – consideration at the beginning may mean the difference between no IHT liability and a 40% tax charge.
- Business rates – are there other costs that may need to be considered?

By your side

As well as advising on the relevant tax aspects of a renewable scheme, we can report to you on the following:

- Project viability
- Appropriate business structure
- Business plans in support of funding applications

appear to have considered 'in the round' in this case. In particular, on the question of whether Mr Golding was farming, the judge found that he was. The judge helpfully qualified this by stating it would be unreasonable to expect the farming activity of an 80-year-old to be extensive.

It is important to make sure farming activities are regularly reviewed with reference to the principles of developing case law.



Taking on staff for harvest?

A significant number of farms will now be taking on staff to help with harvest and autumn fieldwork. Correct procedures should be followed:

Firstly, ensure the necessary Health and Safety procedures are in place and you have liability cover for all the activities and people on the farm.

Next, establish whether the worker is employed or self-employed. H M Revenue & Customs have a useful tool on their website to assist with this at: www.hmrc.gov.uk/calcs/esi.htm.

Factors include whether the worker uses their own tools, can send a substitute worker, bears any financial risk, etc.

If the worker is employed, PAYE and National Insurance Contributions procedures must be complied with. Possible shortcuts are available in some circumstances:

- A form P38(s) can be completed if the worker is a student working on the farm only during their holiday, and pay in your employment does not exceed £7,475.
- If the worker is a bona fide casual worker. Rules are summarised at:

www.hmrc.gov.uk/manuals/pommanual/PAYE23025.htm

Other points to remember include:

- If an employee needs to be processed through the payroll and has no form P45, P46 procedures need to be followed.
- Wages rates and terms of employment must comply with the Agricultural Wages Order and also the National Minimum Wage (NMW).
- Where an overseas worker is used, further responsibilities for training may arise, and the worker must have the right to work in the UK.
- A clear written contract avoids misunderstanding.

Further rules apply where an employee will receive any benefits in addition to their pay. The employer will suffer National Insurance Contributions at 13.8% of the benefit, and the employee will suffer PAYE tax. Take advice, or check the rules, as simple steps can often avoid costly tax bills. If the employer decides to settle an employee's tax liability on a benefit, a further tax charge arises on that amount.

Some rules are modified where the employee earns at a rate of less than £8,500 per year i.e. limit is pro-rated where employment is short-term.

We would be pleased to assist and advise with any payroll queries. Our website includes a range of factsheets and uploads. Go to www.ellacotts.co.uk



Timing of capital expenditure / awareness of balancing charges



Q. I plan to part exchange my combine for a new one in Spring 2012. What should I be aware of to ensure I maximise available capital allowances?

A. Timing of the purchase will be key. The amount of Annual Investment Allowance (AIA) available to claim on plant and machinery purchases is set to reduce from £100,000 p.a., to probably £25,000 p.a. If funds are available, bringing forward capital expenditure would ensure you make use of this generous allowance while it lasts.

Accounting periods straddling 5 April 2012 do not simply have a pro-rated allowance. For example, a business with a 30 April 2012 year end that makes its only capital expenditure after 5 April 2012, could only claim £1,712 of AIA (being £25,000 x 25/365).

If the balance of the purchase is being funded by hire purchase, it is important that delivery has been taken and the combine has been brought into use by 5 April 2012, a difficult thing to prove!

Businesses utilising the AIA in recent years will have noticed the general pool of plant and machinery on which writing down allowances are claimed has been reducing. The disposal proceeds of the part-exchanged combine will be offset against the general pool. If the proceeds exceed the balance of the general pool, then the excess is added to the taxable profit. This is called a balancing charge.

If the supplier of the new combine is amenable, it may be tax advantageous to negotiate a discount off the new combine, with a lower value being accepted for the old combine. This may reduce the likelihood of a balancing charge arising.

Next issue

In our autumn edition, due out in October, we will take a look at using pensions to invest in farming assets and also the practical use of trusts, plus, VAT on building conversions.

Diary dates

Blakesley Show – 6 August – Come and visit our stand
Bucks County Show – 1 September
Moreton-in-Marsh Show – 3 September

Agricultural team announce two important staff changes

From 1 June, Mark Dickin became a Partner in the Agriculture and Property Team at Ellacotts. Mark joined the firm in September 2006 as a Manager and was promoted to Senior Manager in February 2010. In the past five years, Mark has worked tirelessly to provide proactive business and tax planning solutions to meet the needs of Ellacotts' clients.

Adding further strength to the experienced client facing team is Louise Evans, who joined the firm on 1 June as a Manager. Louise, who previously worked for another Oxfordshire firm of agricultural accountants, brings with her a wealth of experience in advising farmers and landowners. With her specialist involvement and commitment to farming and rural affairs, Louise is also responsible for the development of 'The Next Generation Group', which is part of the Agriculture Law Association.



For further advice and information on any of the above, or ideas on how to save money right now, call 01295 250401 and speak to a member of our specialist agriculture team.

For information of users

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