Ellacotts LLP
Chartered Accountants & Business Advisers
Delivering Solutions

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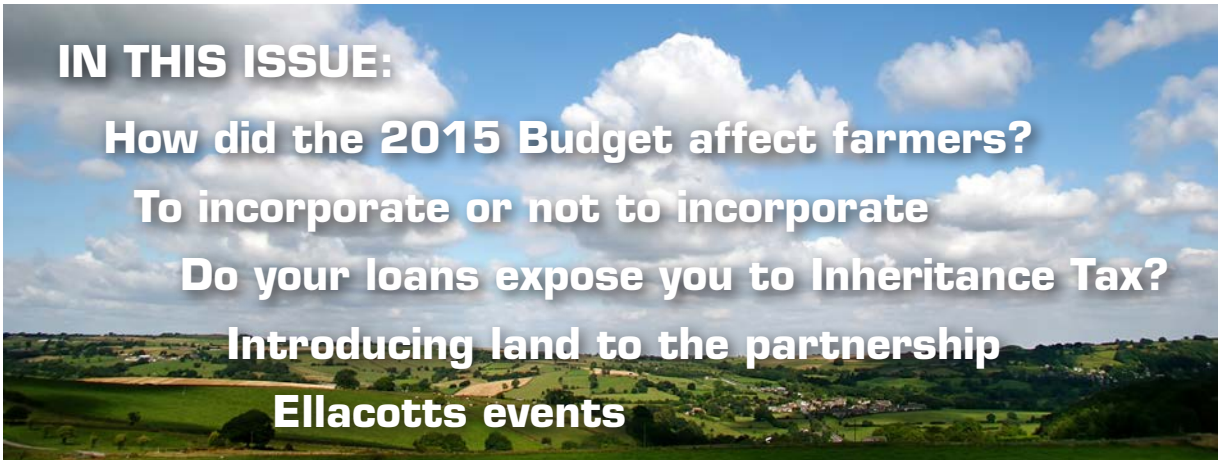
WELCOME TO OUR SUMMER NEWSLETTER



How did the 2015 Budget affect farmers?

There has of course been a change in governing political party and with an Emergency Budget set for 8 July 2015, expert tax planning is now more important than ever for farmers. Here are a few key announcements from the March Budget:

1) Farmers averaging
With effect from April 2016, profits can be averaged over five years instead of two. The detailed design of the scheme will be decided following consultation with stakeholders later this year. While the extended profit averaging period is likely to be welcome, its use will need to be considered carefully alongside sideways loss relief, to maximise tax savings.

2) Entrepreneurs' Relief
Entrepreneurs' Relief (ER) reduces capital gains tax on the sale of all or part of a business to a rate of ten per cent on a lifetime limit of £10 million in gains.

ER does not normally apply to assets held outside the business. However provided the sale of that asset (e.g. land) is accompanied by a disposal of some of the taxpayer's interest in a company or partnership in which the asset is used, ER can be claimed.

Until now there has been no guidance on the minimum interest in a business that needs to be disposed of. However from 18 March 2015, the minimum business interest that needs to be disposed of has now been set at 5%.

Farmers will need to be cautious if they want to sell assets as part of a gradual withdrawal from a business.

3) Inheritance tax
The Budget announced a review into the use of deeds of variation in relation to Wills. If all the beneficiaries agree, such a deed currently can be used to change the terms of a Will to help to reduce inheritance tax bills. This potential loss of flexibility makes tax planning more important than ever.

4) Pensions
Pension funds can now be passed down the generations, enabling them to be used as an effective way of minimising inheritance tax. The lifetime allowance is set to reduce from £1.25m to £1m from 6 April 2016. Any pension funds exceeding this amount will incur penalties at the point of crystallisation. However there are ways to mitigate these.

Of course there were many other important announcements made about issues including Annual Investment Allowance and Compulsory Purchase Orders. If you want to discuss any matters arising from the 2015 Budget please contact Malcolm Smith, Chartered Financial Planner.

To incorporate or not to incorporate

With the difference between personal tax (top income tax rate of 45%) and corporation tax (20%) being so vast, many profitable farming businesses are looking at whether they would be better off to incorporate and run their farming trade through a limited company. Although at first instance from an income tax point of view this looks like an attractive proposition, it is more complex than this and careful consideration is needed.

Reasons to incorporate

- The main attraction of incorporation, especially if profits are to be retained in the business, is that the corporation tax rate is only 20% with no national insurance liability
- In an unincorporated business trading losses can generally be relieved against other income sources such as rental profits; however this is restricted to the higher of £50,000 or 25% of taxable income. In a company there is no restriction as long as all trades are within the company
- Shareholders' potential liabilities are limited
- There is more flexibility to introduce other non-farming family members as shareholders, including grandparent trusts without impacting on the day to day running of the farm
- Companies can make payments into pension funds for their employees (including directors), with the company receiving a tax deduction for the payments

Reasons not to incorporate

- If the company has made an overall loss, this loss cannot be set against other personal income e.g. personal bank interest and the loss is trapped within the company
- The taxation treatment for assets which have an element of private use such as farmhouse expenses and motor repairs are costly in a limited company. These will be subject to income tax and national insurance, along with additional administration to complete form P11D's
- Directors need to be careful not to take loans from the company as this causes both benefit in kind issues and also additional tax liabilities for the company itself
- Any residential properties in excess of £500,000 (from 1 April 2016) where the property is not used for business purposes or comes under the limited categories of exemptions will give rise to an annual charge for the company
- If there is an Agricultural Holding Act tenancy then this in itself may prevent incorporation. If the farm is freehold, a decision needs to be made as to whether the land should be transferred to the company along with the trade or retained personally and let to the company
- Double taxation can arise on the sale of capital assets e.g. if land is sold in the company it will be subject to corporation tax and then income tax in the hands of the individual on the extraction of the profits
- Entrepreneurs' relief (reducing the rate of tax on capital gains to 10%) is not available on assets held by the company
- If instead the land is held personally and used in a company where the owner has control, only 50% Business Property Relief is available. In a partnership where the land is part of the business, 100% Business Property Relief may be available
- There will be an element of public disclosure and accounts will need to be filed at Companies House increasing the burden of administration

These are just some of the tax considerations to be taken into account before a decision to incorporate can be taken.

In many circumstances part incorporation appears to be most beneficial. E.g. Incorporating a separate identifiable part of the business to benefit from the lower corporation rates, whilst maintaining a farming partnership, which holds the land and property, to protect capital tax reliefs.

If you would like to discuss whether incorporation is appropriate for your business, please do not hesitate to contact Joanne Wright.

Join us at CEREALS 2015

As a previous supporter of CEREALS, Ellacotts is thrilled to have a stand (H836) at this year's show taking place on Wednesday 10 & Thursday 11 June. Members of our Agriculture & Property team will be on hand throughout both days to catch up with our clients and fellow industry contacts. If you are planning to attend please do come and say hello as we'll be serving refreshments from early on and hosting a pig roast from 1pm. We hope to see you there!

cereals
The Arable Event
10-11th June 2015
Boothby Graffoe, Nr Lincoln, Lincs

Do your loans expose you to Inheritance Tax?

Be cautious when taking out new loans and altering existing loans as this may affect your ability to claim Business Property Relief or Agricultural Property Relief.

Prior to 5th April 2013 the purchase of business assets funded by raising a loan on a non business asset (usually the family home) meant that the loan liability could be deducted from the family home when calculating inheritance tax, thus maximising Business Property Relief.

e.g.

£ 600,000	Family home – market value
£(200,000)	less : Loan secured on family home
£ 400,000	**Family home value for IHT purposes**
£ 200,000	Business Property Relief qualifying asset
£(200,000)	less business property relief 100%
£ NIL	**value for IHT purposes**

However in the 2013 Finance Act, HM Revenue and Customs restricted the availability of a deduction for debt owed by estate.

New rules meant that for inheritance tax purposes loans taken out after 5 April 2013 were now matched to the loan purpose and not to the asset that the loan was secured against.

e.g.

£ 600,000	Family home – market value
£ 600,000	**Family home value for IHT purposes**
£ 200,000	Business Property Relief qualifying asset
£(200,000)	less : Loan secured on family home
£ NIL	**value for IHT purposes**

These rules however only apply to arrangements put in place after 5 April 2013. It is therefore essential to check where your loan is secured before refinancing or altering the terms of a loan. Refinancing a loan to obtain a better interest rate may be beneficial in the short term but costly in the long term with a large inheritance tax bill.

Please contact us if you would like assistance reviewing your loans to prevent additional exposure to IHT.

Introducing land into the partnership

Business Property Relief (BPR) is a valuable relief for inheritance tax (IHT) purposes as it has the ability to reduce the value of assets to Nil, making the assets exempt to IHT.

It is likely that most farmland will qualify for 100% agricultural property relief (APR), however APR is only available on the agricultural value of the land, any amount above agricultural value e.g. hope value, will not be covered.

It is often beneficial, for IHT purposes, for land which is owned personally and used in a partnership, in which the individual is a partner, to introduce this land into the partnership. This simple step should ensure that the asset qualifies for 100% BPR as opposed to 50% when held outside the partnership.

Buildings that are rented out will not attract BPR when held outside the partnership whereas within the partnership it may be possible to obtain 100% BPR, as long as the partnership remains wholly or mainly trading.

To record which land and buildings are partnership assets, financial accounts should include separate land capital accounts listing all the land and buildings owned by the partnership. The partnership should also have a Partnership Agreement, which will not only clarify land ownership, but also confirm how and when the partner who introduced the land can withdraw it.

Distinct land capital accounts in your financial accounts along with a carefully worded partnership agreement are essential to illustrate to HMRC which assets are partnership assets and consequently part of the business, hopefully allowing them to qualify for 100% BPR.

If you would like to discuss how changing the structure of your accounts may benefit your IHT position, please contact us.

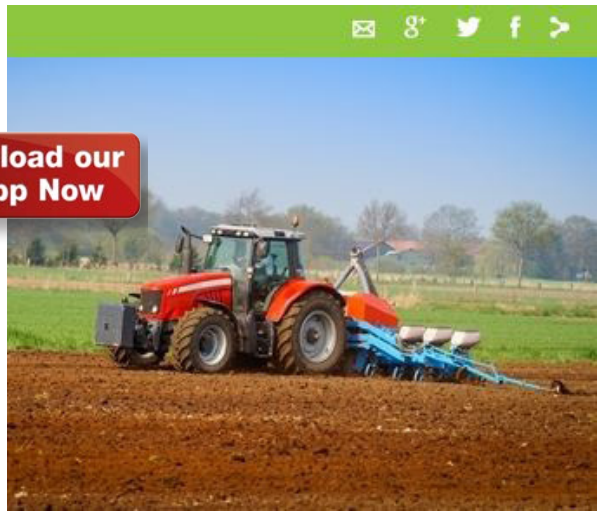
Ellacotts Events

The summer months are always packed with events for our Agriculture & Property team. Here are some we will be supporting and as always, if you plan on attending, please do pop in and say hello:

- Northants YFC Country Show & Rally
- Kenilworth Show – Saturday 6 June
- CEREALS – Wednesday 10 & Thursday 11 June
- Upton House Horse Trials – Wednesday 15 & Thursday 16 July
- Blakesley Show – Saturday 1 August
- Bucks County Show – Thursday 27 August
- Moreton-in-Marsh Show – Saturday 5 September

Ellacotts' New Look!

We are very proud to be showing off a brand new website at www.ellacotts.co.uk which has been updated to reflect our brand values in a colourful and interactive way. We hope you enjoy the refreshed look and find the information and resources useful and easy to find.



Don't forget to download our Mobile App which is available for Apple and Android users. This handy tool provides easily accessible financial information. Just search for 'Ellacotts' in your App store.

Our next newsletter will be published in September 2015

Some Key Team Members

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