Ellacotts

AGRICULTURAL NEWSLETTER
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Furnished holiday lets – hidden tax gems

The merits of furnished holiday lets can often be overlooked by landlords and yet really are hidden tax gems as they offer more tax reliefs than residential rental properties, providing strict availability conditions are met.

Income Tax Reliefs

When calculating taxable profits from your furnished holiday lets business, loan interest is a deductible cost. Compare this to residential rental property which now has a phased restriction to tax relief on interest for higher rate taxpayers, starting 6 April 2017 and scaling in up to 2020.

Furnished holiday let profits count as relevant earnings for pension contributions.

Capital Gains Tax Reliefs

For capital taxes the furnished holiday let is treated as a business and can qualify for Entrepreneur's Relief if certain conditions are met. This means that capital gains on the disposal of furnished holiday lets could be taxed at 10% instead of the capital gains residential property rate of 28%. The potential tax saving of £18,000 per £100,000 of gain is clearly appealing.

In addition Rollover Relief and Holdover Relief can be available on the disposal of furnished holiday let properties.

Inheritance Tax Reliefs

This is a complex area, but depending on the services provided, the Business Property Relief may potentially be available on furnished holiday letting businesses.

VAT

Furnished holiday lets fall within the scope of VAT and if the total business turnover reaches the VAT threshold (currently £85,000) then the business must register for VAT and charge VAT at the 20% Standard Rate. The market of course sets the acceptable price for the property, but 1/6 of the booking price of course is lost in VAT; to counterbalance, Input VAT can be recovered on costs associated with the property. VAT should therefore be a key consideration when looking at uses or ownership of a potential furnished holiday let property.

If you have a suitable property, please contact us to discuss how these rules could affect you.

Could you work with your business partner's spouse?

The untimely death of a business owner is, of course, very traumatic for his or her family as well as those connected with the business. One of the financial implications may be that the owner's widow, widower or other beneficiaries inherits the shares but may have an immediate need for money or have no interest in the business; the surviving shareholders/partners may want to buy the shares but might not have sufficient funds available to do so.

By including business protection in a firm's business plans, owners can help the business to survive and continue trading under seriously challenging circumstances. This type of insurance would provide the surviving shareholders/partners with a lump sum to enable them to buy the deceased's shares or partnership interest without putting undue strain on the business or creating a need to borrow.

This type of insurance should always be written in a trust to ensure the money goes to the right people. By writing the plan in trust, the money does not form part of the deceased's estate and is therefore not liable to Inheritance Tax.

Generally, the partners or shareholders pay the premiums out of their own pocket, but can potentially be paid by the business, as long as tax and National Insurance implications are carefully considered.

It is also possible to include critical illness cover in this type of plan, meaning that should a shareholder/partner have to exit the business having suffered a defined critical illness, again a lump sum would be available to buy their shares.

Do take advice before setting up this type of insurance to ensure that both the plan and the trust meet your particular requirements.

Stamp Duty Land Tax - stop and think before you buy, or sell

Stamp Duty Land Tax (SDLT) replaced stamp duty on land transactions in 2003 and can be complicated for agricultural estates. The SDLT rates in England vary for residential (up to 12%) and non-residential properties (up to 5%). In addition, a higher rate of a further 3% applies to most purchases of additional residential properties costing more than £40,000, such as second homes and buy-to-let properties since 1 April 2016. It is therefore important to know what counts as "residential" for SDLT purposes:

Definitions are key here. "Residential property" means:

- A building that is used or suitable for use as a dwelling, or is in the process of being constructed or adapted for such use, and
- Land that is or forms part of the garden or grounds of a building within (a) (including any building or structure on such land), or
- An interest in or right over land that subsists for the benefit of a building within paragraph (a) or of land within paragraph (b);

"Non-residential property" means any property that is not residential property.

Undeveloped land is essentially non-residential but may be residential property if a residential building is being built on it. So, if a developer buys part of a garden without the house, the garden does not count as a "dwelling" and is liable at the non-residential rates with no 3% surcharge.

A "mixed-use property", such as a purchase from a seller of his house and a field which has been used for farming, is liable at the non-residential rates. So the purchase of a farm estate including a farmhouse and cottages would not normally be liable to the residential rates or the 3% higher rate.

However, there are circumstances where it is better to choose residential rates. This is because the purchaser of more than one residential property (e.g. some farmworkers' cottages) may be able to claim "multiple dwellings relief". This relief can reduce the rate of SDLT to a minimum of 1% if more than one residence is bought and is calculated on the average price for each dwelling.

There are also special rules for partnerships on transfers of farmland into, within and out of partnerships. Broadly, SDLT can be avoided or reduced if all or some of the partners are closely related.

Note that the SDLT rate for companies purchasing residential properties can be even higher (up to 15%) in certain circumstances.

Different deal structures and lottings can therefore significantly affect a buyer's SDLT position. If the seller can accommodate a change that reduces SDLT, perhaps a price increase can be agreed. Do take advice, whether you're buying or selling.

Business reorganisations

Businesses by their nature should evolve and grow. Mostly these changes result from generational succession with partners or shareholders being admitted to, or retiring from, the business. With careful planning there will be minimal, if any, tax liability and these changes will create a stronger business.

With an ageing industry, increasing asset values and profit levels waning, more clients are reconsidering their business structure. HS2 and similar developments are also having an impact.

Often changes involve assets leaving the original business as partners or shareholders seek to separate their operations and asset ownership.

In the case of partnerships, partners may exchange property and working capital assets. We seek to use Capital Gains Tax reliefs for changes in property assets and also elections to avoid any unnecessary income tax liabilities on changes in working capital assets such as stock or machinery. When a company owns the assets and business then a demerger or liquidation may be appropriate.

It is important to identify the key tax risks. All taxes including Stamp Duty Land Tax will need consideration.

Communication is key - within the business, with your bank, solicitor, accountant, key customers and of course staff.

Our goal is to seek a commercial solution that satisfies all parties. We always recommend that there is appropriate legal documentation such as partnership retirement deeds, business transfer agreements etc. Professional valuations of property are often needed. Above all, we try to guide our clients to amicable agreement for the least cost.

Selling land for development – are your foundations strong?

The sale of land for development is becoming ever more common as the government continues to address the UK's housing shortage. With significant sums being paid, careful planning is required to ensure landowners benefit fully from proceeds received. Here are some of our top tips to look out for:

Look out for deferred payments

It is common for proceeds to be paid in instalments. Regardless of how the proceeds are received, tax is usually assessable, and payable, on the total proceeds based on the date of exchange of contracts. It is therefore vital to ensure sufficient cash is received before tax is payable!

VAT- Should you Opt to Tax?

Landowners may benefit from electing to Opt to Tax their land, particularly if they are involved in a Promotion Agreement and incurring significant costs upon which VAT is charged. Opting to Tax allows the landowner to reclaim the VAT on such costs, ultimately minimising the deductions from the gross proceeds.

Keep out of the Income Tax trap

Where developments are deemed to be a 'joint venture' between the developer and the landowner, the proceeds are likely to be subject to Income Tax rates, likely to be 45%. It is therefore vital for landowners to ensure their structure falls into the Capital Gains Tax regime, securing rates of 20%, or better still, 10% with the use of Entrepreneurs' Relief. Also, if the seller is deemed to be involved in a development or other property trade, rather than selling an asset, Rollover Relief will not be available.

Plan ahead

Land continues to attract both Capital Gains Tax and Inheritance Tax reliefs. These reliefs can disappear when wealth changes from land to cash. Therefore, landowners should consider who ultimately they would like to benefit from the proceeds and take advantage of planning opportunities, prior to converting land to cash. A long term strategy is needed, well in advance of seeking planning permission, or a sale, to maximise the value of available tax reliefs on the sale, and potentially later on death.

Needless to say, there is huge potential for landowners to receive great returns on their assets; the right advice is needed to maximise this potential.

2016 Harvest interim report and benchmarking

2016 harvest management accounts for our arable clients show how the 2016 Harvest compares with 2015.

	Wheat (per acre)		Oilseed (per acre)	
	2016	2015	2016	2015
Yield				
Average	3.4t	3.9t	1.23t	1.6t
Range	3.t - 3.89t	2.85t – 4.6t	1t – 1.75t	1.2t – 1.9t
Gross output				
Average	£434	£442	£401	£450
Range	£358/£563	£335/£615	£330/£639	£345/£590

Taking a typical mainly arable client's overheads:

	2016 £/acre	2015 £/acre
Gross output	£385	£424
Variable costs	£210	£220
Gross margin	**£175**	**£204**
Fixed costs		
Labour and contract	£24	£33
Machinery and power	£139	£150
Property	£47	£37
Administration	£36	£32
Total fixed costs	**£246**	**£252**
Management loss before rent and finance	(£71)	(£48)
Rent	£24	£32
Finance	£14	£19
Total rent and finance costs	**£38**	**£51**
Other income including Basic Payment	£235	£224
Profit before drawings, tax etc.	**£126**	**£125**

Key trends:

- Accounts show wide variations in price per tonne, as Brexit concerns have no doubt influenced farmers' marketing strategies.
- Average gross output per acre has dropped by £39 yet variable costs have only seen a reduction of £10 per acre. The weaker pound has tightened margins again this year.
- Power and machinery costs are lower this year, mainly because of farmers reducing their capital expenditure on new kit.
- Most farmers have received their Basic Payment Payments but there are still outstanding underpayments for the 2015 calendar year. We have not seen a great uptake of the new stewardship schemes.
- 2017 looks like being another difficult year and with possible interest rises later in the year, controlling fixed costs and maximising other income opportunities remain vital.

Forthcoming events

We have a busy summer of events. We recently attended the Kenilworth Show and Cereals and over the next few months we will be attending the following shows. We look forward to seeing you there!

Upton House Horse Trials | Wednesday 12th - Thursday 13th July
Upton House, Oxfordshire

Blakesley Show | Saturday 5th August
Maidford, Northamptonshire

Bucks County Show | Thursday 31st August
Weedon Park, near Aylesbury

Moreton in Marsh Show | Saturday 2nd September
Moreton in Marsh, Gloucestershire

Meet some of our 35 strong Agri team

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