AGRICULTURAL NEWSLETTER

Autumn 2019 edition

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Business Asset Rollover Relief revisited

Business Asset Rollover Relief allows you to delay your payment of Capital Gains Tax (CGT) if you dispose of business assets and use all or part of the proceeds to buy new business assets. This means that the CGT is not due until you sell the new asset.

Although Rollover Relief has been available for many years, different scenarios often cause us to re-read legislation and HMRC guidance in order to achieve the best outcome for our clients and guide their reinvestment strategies.

In order to qualify for Business Asset Rollover Relief:

- you must buy the new assets within three years of selling or disposing of the old assets (or up to one year before). For CGT purposes, the date of unconditional contract is the relevant date
- your business must be trading when you sell the old assets and buy the new ones
- you must use the old and new assets in your business. If the old asset was used by your personal company, the new asset must be used by the same company

You can claim relief on assets including:

- land and buildings
- fixed plant or machinery, e.g. grain drying equipment, fittings for intensive livestock buildings. Here the deferred gain is taxable on the earliest of ten years, disposal of the new asset, or new asset no longer used in the business. This can be a useful way to park a gain, whilst property is sought. Buying less than ideal land to save CGT is rarely worthwhile, given transaction costs and Stamp Duty Land Tax

Partial relief may be available if:

- you only reinvest part of the proceeds from the old assets
- the old assets were only partly used in your business. A tenancy over the new or old land is a problem here - buying land with a Farm Business Tenancy in place does not work as a rollover strategy

It is possible to claim provisional relief if you plan to buy new assets with your proceeds but haven't done so yet. Relief can also be available if you use the proceeds to improve assets you already own.

Different rules apply when dealing with a compulsory purchase. Please contact us if this applies.

How to get the most out of Business Asset Rollover Relief

1. It is worth drafting calculations before a disposal as:
    - CGT considers the beneficial ownership of assets, which needs to be confirmed as the first step.
    - If there is no taxable gain on the disposal, Business Asset Rollover Relief isn't relevant.
    - You need to know what the rate of CGT is on disposal, how much would you have to reinvest, and what would the saving be?
2. Sometimes, paying the CGT and using the proceeds as you like (e.g. reducing borrowings) may be the best option.
3. If a new asset is identified, consider if you want this to be in the hands of the owner of the old asset? If the new asset is expected to increase in value and not qualify for full Inheritance Tax (IHT) reliefs, you may unwittingly create a 40% IHT liability, which can be more than the original CGT saving.
4. Remember that rolled over gains die with the taxpayer, escaping CGT forever.
5. Rollover Relief can be claimed into inherited assets, provided these will be used in your business. The date of the inheritance needs to fit into the Business Asset Rollover Relief time window. This is particularly worthwhile if you intend to hold the inherited assets until your own death. The CGT base cost of the asset on your death, under current rules, would then be probate value, with the rolled over gain falling away.
6. HMRC have discretion to extend the rollover reinvestment window in certain circumstances; we have had success in putting forward cases to support such requests.

This article and tax planning suggestions are based on rules at the time of writing. If you would like advice on Business Asset Rollover Relief in relation to your specific circumstances, please contact your usual Ellacotts contact or Helen King on hking@ellacotts.co.uk or 01295 250401 who would be delighted to help.

New Capital Gains Tax rules coming in April 2020

Are you are planning on selling residential property in the future? If so, are you aware of the changes to the rules? From 6 April 2020, all UK residents who dispose of UK residential property will have to submit a Capital Gains Tax (CGT) return, and make a payment on account of tax, within 30 days of completion of the sale.

These new rules apply to individuals, personal representatives and trustees. There are limited exemptions in place, the sale of your main residence and 'no gain/no loss' transfers between spouses being two examples.

This is a big change from the existing legislation: currently taxpayers have until 31 January following the end of the tax year in which the disposal was made to finalise computations and pay the CGT due. If you fail to comply with the new rules, you could be hit with penalties and charged interest.

HMRC do have plans to communicate these changes to the public, so ensure that you look out for their information. Their publicity will make it harder to successfully appeal any penalties if you miss the deadline.

As well as this, there are other changes to CGT on private residences being implemented from 6 April 2020 including:

- Reducing the Private Residence Relief (PRR) final period exemption from 18 months down to 9 months (i.e. the period before disposal of a home when it still qualifies as exempt from CGT)
- Restricting Lettings Relief to cases where the owner shares occupancy of the house with the tenant

If you are unsure whether you are affected by these changes, what should you do?

If you own a property and would like to understand how these changes may affect you and to understand the planning options that are available, please contact your usual Ellacotts contact or Patrick Gardner on 01295 250401 or pgardner@ellacotts.co.uk.

Are you ready for uncertain times ahead?

Unfortunately, we cannot help with Brexit! Where we can help is in ensuring that you and your business are as prepared as possible for uncertain times ahead. Below, we examine some key areas where we are helping our clients prepare.

It's important to understand how your business is performing

In order to understand how your business is performing, it is important to regularly monitor your cash flow. The year end accounts not only show historic data but they also contain accounting adjustments - a cash flow for the same period can show a very different story. Many cloud accounting packages have the facility to produce a cash flow or alternatively, a spreadsheet can be set up to generate the figures. Once you have a template in place, you can flex the numbers to show the impact of changes in price, or yields. This can be extremely powerful in providing insightful financial information and allows you to take timely action.

Withdrawal of the Basic Payment Scheme is prompting diversification projects

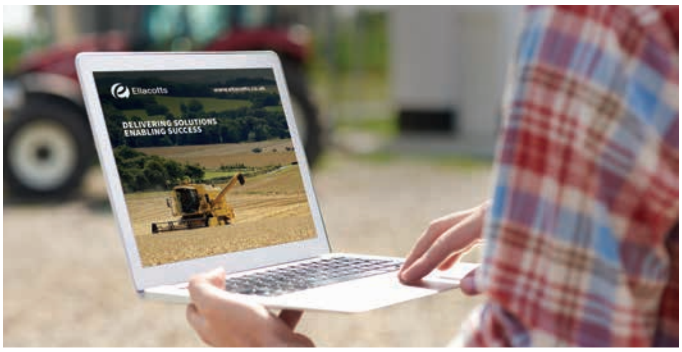
Once we leave the EU, the Basic Payment Scheme (BPS) is to be withdrawn. How will your cash flow look if you factor in the loss of this income? The withdrawal has prompted many businesses to look for diversification opportunities to supplement their turnover and ensure they are fully utilising the assets they own. However, before ploughing straight into a diversification project, it is important to assess the costs involved whilst also ensuring there is room in the market for your project. We highly recommend speaking with a local business consultant before investing heavily. There are also wider taxation implications to consider such as Inheritance Tax (IHT) reliefs, which can be dramatically different if the use of an asset changes away from trading.

Ways to reduce your costs

Cost control is another way to improve your cash flow. Simple measures can be taken such as purchasing through a buying group, to more bespoke arrangements such as machinery sharing or even the sharing of labour. In some cases, it may be possible, and very tax efficient, to swap land in order to own land closer to base, thereby reducing fuel costs. Our specialist team can advise you on the best ways to reduce costs.

We can help you prepare for uncertain times

In the coming months, we are sure to face a considerable amount of uncertainty. Knowing how to deal with this is no mean feat but one thing is for sure, burying your head in the sand is not an option. We would be pleased to assist you in ensuring that both you and your business are ready for the uncertain times ahead. If you would like any advice, please do get in touch with your usual Ellacotts contact or Kerry O'Reilley on 01295 250401 or koreilley@ellacotts.co.uk.



Possible implications of Inheritance Tax Review

Anyone who has received an inheritance will be aware that the rules surrounding tax after death are complicated. In 2018, the Chancellor asked the Office for Tax Simplification (OTS) to review Inheritance Tax (IHT) legislation and to recommend improvements that could be made to streamline the tax system. On 5 July 2019, the OTS published its second report. Suggestions included replacing current exemptions with an overall 'Personal Gifts Allowance', and reducing the time needed between gift and death for an asset to fall outside of an estate from 7 years to 5 years, with no taper relief.

The key areas for farmers, rural businesses and landed estates are:

Capital Gains Tax (CGT)

Assets are inherited for Capital Gains Tax (CGT) purposes at the market value on death, so that increases in value are free of CGT. This rule encourages people to hold on to assets rather than gift them in life, which can negatively affect the farming business. The OTS report suggests that if an asset is subject to an IHT relief, this CGT-free valuation uplift could be removed, to incentivise more farmers to make lifetime transfers of assets.

Bad news: IHT rules could be changed to follow CGT rules

Currently, 100% IHT relief can be obtained when the activities of a business are wholly or mainly trading in nature. This generally means that more than 50% of all activities are trading. It's suggested that the IHT rules should be the same as CGT rules, which generally require more than 80% of the activity to be trading. If HMRC decide to follow the suggestion, it could lead to a complete loss of Business Property Relief for many farmers, where diversification and non-trading activities such as rental properties are significant. Careful reviews of assets, ownership and activities will be needed.

Good news: Holiday lets would qualify for 100% IHT relief

Holiday lets can be an excellent way for property owners to generate new sources of income. Currently, furnished holiday lets are generally treated as trading for Income Tax and CGT purposes, but as investments for IHT purposes. The proposals would see these rules aligned. Genuine furnished holiday lets would then also treated as trading for IHT purposes, qualifying for 100% IHT relief.

Farmhouses: Ill health and Agricultural Property Relief (APR)

Presently, if a farmer has to go into long term care then APR may not be available because the farmhouse may not be occupied for agricultural purposes immediately prior to death. The OTS suggests that the eligibility tests in such circumstances need to be clearer and more transparent.

Are formal valuations necessary?

The OTS also identified a lack of clarity regarding when formal valuations are required. These valuations can be expensive, so when no IHT is due, a full formal valuation appears to be unnecessary. The OTS called for HMRC to provide guidance as to when a formal valuation is required.

Overall, there are good proposals in the OTS report. However, if these suggestions are taken on board, you will need to carefully plan to ensure the value of reliefs is maximised. Whenever there are changes, it is important that you seek guidance on the implications. For advice on these proposed changes, or any IHT planning advice, please do contact your usual Ellacotts contact or Joanne Wright on jwright@ellacotts.co.uk or 01536 646000.

What is Business Protection Assurance and do you need it?

Business Protection Assurance is a type of insurance that helps protect a business against possible financial losses when terminal or critical illness or death affects the owners or their employees. By including this in your business plans, you can help your business to survive and continue trading under seriously challenging circumstances.

There are three main types of Business Protection Assurance:
- Key person protection
- Partner/Director/LLP Share Protection
- Business Loan Protection

This article focuses on Share Protection and Loan Protection.

What is Partner/Director/LLP Share Protection?

The loss of a business owner may destabilise the business and can quickly lead to financial difficulties. This cover helps the remaining business owners to stay in control of the business.

If a business owner dies, or becomes terminally or critically ill during the policy term, this cover provides funds to the remaining business owners to help purchase the deceased or critically ill business owner's interest in the business.

Tax on premiums paid by the shareholder:
- The premiums are paid out of taxed income and don't benefit from tax relief.

Tax on premiums paid by the business:
- The premiums are a deductible business expense.
- Employer National Insurance is payable on behalf of the shareholder on the value of the premiums and the employee is liable to Income Tax on the value of the premiums.

Tax benefits:
- There is no liability to Income Tax on any benefits paid under life or critical illness cover.
- Life policies are usually exempt from Capital Gains Tax in the hands of the original owner.

Any benefit paid out won't be part of the policyholder's estate if placed into an appropriate business trust.

What is Business Loan Protection?

The loss of the person(s) who guaranteed a loan is particularly serious for a business. Business Loan Protection helps the business pay an outstanding overdraft, loan or commercial mortgage, should the guarantor die or become terminally or critically ill during the policy term.

Business Loan Protection is life assurance (sometimes life assurance and critical illness cover) written on the life of an individual or individuals. When a valid Business Loan Protection claim is made, a sum equal to the outstanding debt could be paid to either the business or directly to the lender.

The premiums are not deductible as a business expense because the policy is set up for a capital purpose, the repayment of a loan. Payments from the policy are not taxable as they are treated as a capital receipt.

Please contact Chris Slatter on cslatter@ellacottswealth.co.uk or 01295 250401 to discuss how these policies could help you, your business, and your family plan for challenging times that we hope won't happen. As ever, hope for the best but plan for the worst.

Upcoming events

Benchmarking seminar

We will once again be hosting a Benchmarking seminar on Thursday 5 December at our Kettering office.

We will reveal, amongst other things, our clients' 2018 harvest data and early observations of 2019 harvest data. We will also discuss possible tax planning opportunities. If you would like to attend, please contact Alex Taylor on 01536 646000 or alextaylor@ellacotts.co.uk.

Oxford Farming Conference 2020

On Wednesday 8 January 2020 we are joining some of the most influential speakers from the farming community and sponsoring The Oxford Union Debate and Post Debate Supper as part of the Oxford Farming Conference 2020.

Team developments

We are delighted to announce the promotion of Kerry O'Reilley to Director. Kerry joined Ellacotts in November 2010 as an AAT Trainee and has progressed to Senior, Assistant Manager, Manager and now Director over the last 9 years.

Meet some of our team


Ann Bibby
Partner
abibby@ellacotts.co.uk


Robert Black
Assistant Manager
rblack@ellacotts.co.uk


Pip Cusack
Manager
pcusack@ellacotts.co.uk


Mark Dickin
Partner
mdickin@ellacotts.co.uk


Patrick Gardner
Assistant Manager
pgardner@ellacotts.co.uk


Steve Gardner
Manager
sgardner@ellacotts.co.uk


Louise Hosking
Director
lhosking@ellacotts.co.uk


Helen King
Partner
hking@ellacotts.co.uk


Kerry O'Reilley
Director
koreilley@ellacotts.co.uk


Rachel Rahman
Manager
rrahman@ellacotts.co.uk


Claire Rigby
Director
crigby@ellacotts.co.uk


Andrew Slack
Consultant
aslack@ellacotts.co.uk


Chris Slatter
Independent Financial Adviser
cslatter@ellacottswealth.co.uk


John Thame
Partner
jthame@ellacotts.co.uk


Joanne Wright
Partner
jwright@ellacotts.co.uk

Banbury

Countrywide House
23 West Bar
Banbury
Oxfordshire
OX16 9SA
+44 (0)1295 250401

Kettering

Vantage House
2700 Kettering Parkway
Kettering Venture Park
Kettering
Northamptonshire
NN15 6XR
+44 (0)1536 646000

London

Suite 100
99 Bishopsgate
London
EC2M 3XD
+44 (0)203 6937315

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