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Addition

AGRICULTURAL

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For Budget updates, please see our website

KEEPING THE COUNTRY FARMING

BASIC PAYMENT SCHEME

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KEEPING THE COUNTRY FARMING

Free market forces fail where a multitude of independent producers, like farmers, have to sell their produce to a small number of buyers. The market power of those buyers is too dominant.

That is why the UK farming sector has needed Government support over many decades and why support must continue post-Brexit.

The form of support has changed over the years – from direct produce payments, to intervention, to area payments and recently, as the political environment has greened, toward environmental payments.

Basic Payment Scheme (BPS)

Britain is leaving the EU's Common Agricultural Policy and area-based direct payments (now the BPS) are to be phased out by 2028, with the first reduction taking effect in 2021. The first cut will take 5% off the first £30,000 of any BPS claim and a larger percentage off bigger claims.

Agricultural Policy for England

The new Agriculture Bill commits Government to making 5- to 7-year plans for English agriculture, to consider food security and to encourage the production of food in an environmentally sustainable way.

Over the last several years, many farmers have taken advantage of the Countryside Stewardship Scheme. As BPS is reduced, money available for rural and environmental management schemes should increase. Government has guaranteed to maintain its current farming budget throughout the current Parliament.

One new initiative is the Woodland Carbon Guarantee Scheme, which encourages woodland planting with a long-term option to sell the captured CO2 to Government for an inflation-linked, guaranteed price. A Woodland Carbon Guarantee contract can be negotiated alongside existing grants for new woodlands.

The new national agricultural policy will create winners and losers. It has been suggested that the phasing out of BPS may reduce Farm Business Tenancy (FBT) rents because existing levels assume that tenants will receive BPS. Whether there will be a similar impact on capital land values remains to be seen.

For 2020, make sure you get your BPS application in by 15 May.

GRAZING LICENCES – DO YOU ‘OCCUPY’ YOUR LAND?

As we age and slow down, getting paid for someone else to do the hard graft becomes an attractive prospect. But many farmers know that keeping their ‘trading’ status can maintain important tax advantages, including:

- Tax deduction for some of the farmhouse expenses
- Relief for farming losses against pension and other income
- Some inheritance tax shelter on the farmhouse
- Inheritance tax shelter on the full value of farmed property

Letting out the land sacrifices those advantages, so many ageing farmers seek to preserve their trading status with grass keep arrangements. The essence is that the farmer/landowner grows a crop of grass and sells it for a grazier to remove with their stock.

Activity

For a grazing licence to support the desired tax advantages, it is important that (both in the written agreement and in the evidence of what happens), the landowner/farmer does everything possible in the maintenance of the land and the grazier does nothing. Many tax cases over the past 20 years have had adverse outcomes because the grazier has been too active and the landowner insufficiently so. Who spreads the fertiliser is particularly important.

Even where the landowner is active, it is debatable whether a grazing licence is enough to benefit the farmhouse. A farmhouse is the centre from which an active farming trade is managed day-to-day and the property must constitute ‘land with a house’, rather than ‘a house with land’.

An elderly farmer

The recent taxpayer success in *Charnley & Another v HMRC* is refreshing. The case involved the estate of Mr Gill, an elderly farmer whose 22 acre farm was all used in grass keep. HMRC had rejected an agricultural property relief claim on the farmhouse, but the First Tier Tax Tribunal allowed the claim because it was demonstrated that Mr Gill had remained in possession, control and occupation of the land because he had been responsible for maintaining the hedges and fences, controlling the weeds, topping, fertilising and reseeding. He also supervised the graziers’ cattle. This was evidenced by detailed records (including photographs) and corroborating statements from the graziers.

The tribunal concluded that Mr Gill’s activity had always been a farming trade and that remained so even when the farm was stocked with graziers’ cattle. Since he was an active farmer managing the farm from his home, it was decided that the farmhouse should qualify for APR.

The *Charnley* case provides model working practices for elderly farmers seeking to preserve their trading tax advantages within a grass keep arrangement.

Please contact us if you would like a tax review of your arrangements.

GIDDY UP!

A pony is a childhood dream and a horse is an adulthood treasure. But farmers considering diversification should be mindful that different livery arrangements have different tax consequences.

DIY livery

DIY livery is the supply of (only) stabling to a horse-owner who looks after their own animal(s). Unless a VAT 'option to tax' is in place, DIY livery is VAT exempt provided the horse-owner is granted exclusive use/occupation of the stabling or an identifiable area of it.

Farmers will sometimes sell feed for horse-owners to use. Like other feedstuffs, this can be a zero rated supply.

Income from DIY livery is property income; i.e. investment rather than trading. This may often be disadvantageous for inheritance tax.

Full serviced livery

Full serviced livery, where you contract to look after horses for their owners (animal keep), is a trading activity (so may qualify for inheritance tax Business Property Relief) and is standard rated for VAT. It is not possible to divide full serviced livery into notional separate supplies (e.g. feed) with different VAT treatments on different elements.

Many horse-owners will be unable to reclaim VAT and will perceive 20% VAT as added cost, which makes the livery yard less competitive.

Other arrangements

A multitude of arrangements fall between the extremes of 'DIY livery' and 'full serviced livery'. Services may include any combination of feeding, turning horses out to graze, mucking out, worming/clipping, grooming/plaiting and taking on the welfare of the horses (e.g. veterinary and farrier work).

The tax treatment depends on the particular circumstances.

To determine the VAT status, you must consider whether the customer is receiving one or more distinct, independent supplies. If there are separate supplies, the VAT treatment depends on whether each is a 'principal' supply, or whether there is one 'principal' plus 'ancillary' supplies. If there is a single supply or a principal supply, its VAT treatment is applied to the whole transaction.

For inheritance tax, in the recent Vigne case, Business Property Relief was allowed in circumstances which fell short of the usual 'full serviced livery'. However, that was because the Tax Tribunal decided that a sufficient range of services was included within the supply to horse-owners.

Agricultural Property Relief

Property used for livery (or horse grazing) will rarely qualify for Agricultural Property Relief. To qualify, the horses would need to be used for agricultural activity.

Private use

Where a farmer's private horse uses the same stabling and consumes grass alongside the livery horses, a private usage adjustment will be required.

The VAT and IHT implications of livery can be complex. Please contact us if you are considering diversifying into livery, or if you require advice for an existing activity.

CHILD BENEFIT WARNING

On the birth of a child, it is important to register for child benefit. Registering provides the parent with National Insurance credits for future state pension purposes and informs HMRC to issue a National Insurance number when the child reaches age 16. Most families will also benefit from receiving child benefit.

Families are required to repay child benefit with their income tax if either parent's income exceeds £50,000. Most farmers' incomes are lower, in which case there is no need to disclose child benefit in the tax return.

But farming profits fluctuate and there may be one-off years when a farmer's income exceeds £50,000. When that happens, it is important you provide us with details of child benefit (even if received by a partner), so the clawback charge is included in your tax return. HMRC know who receives child benefit and they frequently enquire into higher income tax returns where a clawback charge is missing.

If you are in the position of consistently having income above £60,000, an opt-out claim can be made to avoid receiving child benefit and having to repay it all.

FARM FINANCE POST CAP

START POINT FINANCE

Defra are preparing legislation under the Withdrawal Act to ensure UK farms have continuing operation of payments but what happens if the system breaks down?

Agriculture is one of the few industries that the High Street Banks have retained specialist commercial managers to support, however lending rules are structured to enforce levels of security and (more importantly) affordability that could prevent a credit offer.

Add the increase in overdraft rates and the FCA are now advising businesses to look at alternative ways of funding longer term debt, but what are the options?

Fortunately, the low interest-rate environment for organisations seeking a return means that there is plenty of cash available for UK businesses from other finance sources.

At its simplest, this could be an unsecured loan, but there are banks happy to refinance green energy schemes, farm equipment and even cows.

If the farm has commercial customers, then the sales ledger can be used to access the lowest cost funding via confidential invoice finance.

Timing is everything, so looking ahead to address future cash requirements will reduce cost and increase options. A well-articulated credit application supported by up-to-date financial information and, even better a costed forecast is the ideal approach. In a practical world that may not be easily done, but looking at as many options as possible is common sense and the earlier the problem is addressed, the better the outcome and the lower the cost.

Contributed by Start Point Finance.

SELLING OR GIFTING A HOUSE?

Almost every farmer has a farmhouse. Some are in the fortunate position of having other houses or cottages on or off the farm. Changes in the capital gains tax (CGT) treatment are being introduced for disposals of dwellings from 6 April 2020.

From that date, when a dwelling is transferred, an additional tax return must be filed and the CGT paid within 30 days of the completion date.

Simultaneous changes to main residence relief mean that CGT exposure on such disposals will often be higher than previously because:

- The final period exemption (which qualifies for relief automatically, regardless of whether the dwelling was still the taxpayer's main residence) is reduced from 18 months to 9 months.
- Lettings relief (which can extend a claim for main residence relief) ceases to be available other than in the uncommon situation where the owner has occupied the dwelling at the same time as the tenant.

Divorce

The reduction in final period exemption is a particular problem for a divorcing spouse who moves out of the family home more than 9 months before it is sold. However, if the home is retained by the ex spouse, the person moving out may still qualify for full main residence relief on a late transfer (although they would then be blocked from main residence relief for the same period on the new home).

Holdover relief

Where a home is to be gifted within a farming family and full main residence relief is unavailable, holdover relief might avoid having to pay CGT if the dwelling qualifies for Agricultural Property Relief. Holdover relief is also available for gifts into trusts (but main residence relief would be denied on subsequent disposals).

Except in the situation where a taxpayer sells a dwelling that has been their sole residence throughout the ownership period, the capital gains tax implications of selling or gifting a dwelling can be complex. The new requirement to pay any CGT within 30 days means those complexities must be considered earlier.

Please contact us in advance of selling or gifting a property.

CLASS 2 NATIONAL INSURANCE – YOUR BEST INVESTMENT?

Would you pay £5,460 to get an income in excess of £6,500 per annum, inflation-protected for life? That is the potential return from paying Class 2 National Insurance contributions.

Class 2 contributions are compulsory from age 16 to state pension age for farmers and other self-employed people earning more than £6,365pa.

Those with lower profits are not required to pay, but making voluntary Class 2 contributions is an inexpensive way to build state pension entitlement.

For a full state pension, 35 full years of Class 1, 2 or 3 National Insurance contributions or credits are required. Class 1 contributions are paid on employment income (typically costing 13.8% and 12% on a large part of salary for the employer and employee respectively). Class 3 contributions are voluntary for people who are not self-employed and currently cost £15 per week.

Class 2 contributions are just £3 per week. Government previously announced that Class 2 would be abolished from April 2018 or 2019 but have backtracked.

Class 2 contributions can also provide entitlement to Maternity Allowance, Bereavement Support Payment and contribution-based Employment and Support Allowance.

Exceptions

Paying Class 2 voluntarily will often be highly advantageous for those not compelled to pay, but there are exceptions; for example:

- Only 35 years of contributions are required for a full state pension. A person starting work young might expect to work around 50 years and might not need to make voluntary contributions in early, low income years. An older person might already have paid 35 years of contributions.
- A person who is employed (earning more than £120 per week) would gain no advantage from making voluntary Class 2 contributions in relation to a simultaneous self-employment as Class 1 would already build up entitlement.
- A parent with a dependent child aged under 12 may qualify (as do some other groups) for free National Insurance credits.
- A pensioner with a poor (or non-existent) contribution record can claim up to £75.50 state pension based on their spouse's National Insurance history.

State pension forecast

You can check your contribution history online at https://www.gov.uk/check-state-pension or by sending form BR19 to HMRC. This can help identify where voluntary Class 2 payments would be beneficial or wasted.

Please ask us if you would like your contribution position reviewed.

CONTACTS

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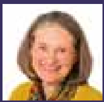

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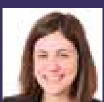

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AGRICULTURAL SHOWS

We will be attending the following agricultural shows. Please come along and joins us for light refreshments, giving you the perfect opportunity to sit down and relax for a while.

North Devon – 5 August

Honiton – 6 August

Okehampton - 13 August

Holsworthy – 27 August

For further details visit our website www.simpkinsedwards.co.uk

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