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AGRICULTURAL SPOTLIGHT

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HIGH SPEED RAIL LINK
WHAT NEXT FOR THOSE AFFECTED?

PLUS: PREVENT ILLEGAL WORKING, RURAL PAYMENT NEWS

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WHILE THE UK STOPS FOR THE QUEEN'S JUBILEE AND THE OLYMPIC GAMES, THOSE IN THE FARMING SECTOR WILL CONTINUE TO BE BUSY AT WORK

WELCOME

Welcome to the Summer 2012 issue of Agricultural Spotlight, our quarterly newsletter. While the UK stops for the Queen's Jubilee and the Olympic Games, those in the farming sector will continue to be busy at work. And as a record April rainfall and an ongoing drought currently provide a confusing backdrop to rural life, we hope that this edition will bring a degree of clarity to your understanding of many issues affecting the industry.

Featured this quarter are pieces on the effects of the 2012 Budget; capital allowance tips; VAT reminders; updates on Rural Payments; and advice on illegal working. But first, we concentrate on an issue affecting many in the Midlands and the South – the High Speed Rail Link 2.

HS2 – WHAT NEXT FOR THOSE AFFECTED?

Earlier this year, the London to West Midlands section of the proposed High Speed Rail Link 2 (HS2) was approved. A number of campaign groups and local authorities are threatening legal proceedings which may open a Judicial Review, nevertheless home and landowners on the proposed route should be preparing for HS2 on the basis that implementation is highly probable.

Full compensation policy details are due later in the year along with a confirmation of all properties affected by the route, however the Exceptional Hardship Scheme is currently open.

Exceptional Hardship Scheme

This scheme has been set up for those property owners affected by the route who urgently need to move, and would suffer exceptional hardship if they are unable to do so. It allows them to apply for the Government to buy their property at its full unblighted value.

The scheme covers all areas of the route, excluding tunnelled sections but including properties close to the exits and entrances of tunnels. It is open to:

- residential property owners;
- owner-occupiers of commercial properties with an annual rateable value not exceeding £34,800
- owner-occupiers of agricultural units
- those who have recently inherited a property
- those whose property has been repossessed and urgently need their lender to sell it

Each application submitted to the EHS will be looked at on a case by case basis by a panel who then make recommendations to the Secretary of State for Transport on whether the Government should buy that property or not.

Examples of what represents exceptional hardship could include where the owner:

- is changing employment location
- is under extreme financial pressure
- needs to buy a larger or different property to accommodate an enlarged family
- needs to move into sheltered accommodation, a nursing home, or in with other family members

When the owner applies to the EHS, the property must have been on the open market for at least three months, with no offers of 85% or more of its unblighted value.

Although currently in operation, it is anticipated that the EHS scheme will be succeeded by a new scheme in Autumn 2012. At time of writing it is not clear what changes the new measures will put into effect.

Compulsory Purchase

Those not eligible for the Exceptional Hardship Scheme may be required by law to sell their property to the Government under compulsory purchase.

Compensation will be awarded based on the principle that the property owner will be financially no worse off after the acquisition than before.

The compensation claims for residential properties will be straightforward but cases involving farms and businesses will be significantly more complicated as trade losses and disruption will also have to be taken into consideration.

The compensation will cover:

- The value of the land taken
- Where only part of the land is taken, the loss in value of the retained part of land by result of it being severed and also any losses caused by the use of the possessed land affecting the value of the remainder.
- Costs of removal from the property.
- Reasonable costs of surveyors, conveyancing and solicitors fees incurred in agreeing a claim.

It may be also possible to claim compensation for the diminution in value of property not acquired by the Government. However, this value must be caused by noise, pollution or vibrations from HS2 once the line has been operational for a year. Compensation cannot be claimed for the effects of a spoiled view.

Access Payments

Landowners and occupiers affected by the HS2 rail line will receive a £1,000 payment to allow contractors access onto their land as part of the early route development. The contractors will be primarily concerned with the environmental impact of the line. If the land is tenanted, the payment will be split between landlord and tenant.

On top of the £1,000 payment, HS2 has agreed to further requests by the CLA and NFU to make additional payments if further environmental surveys are required and that HS2 will pay for any damage done or losses caused.

The official site for HS2 is located at **www.hs2.org.uk**

WHAT DOES THE 2012 BUDGET MEAN FOR FARMERS?

We briefly examine some key points of March's budget, highlighting issues that those in the agricultural sector may want to be aware of:

- The personal allowance, currently £8,105 will rise from April 2013 to £9,205. This means low earners will have to earn income over £9,205 before they pay any tax.

  However, the level of earnings at which individuals start paying tax at 40% will fall from £42,475 to £41,450.

  Those likely to be affected by the fall will need to ensure that careful tax planning is in place to ensure that they maximise their tax savings.

- Stamp Duty Land Tax on residential properties worth more than £2m will rise to 7%. The rate for residential properties between £1m and £2m remains at 5%.

  Landowners seeking to sell a farm containing a valuable house may well see reduced interest as purchasers are put off by a SDLT bill increased by at least £40,000.

  Generally the farmhouse sold with a farm will be treated as a commercial property and will not be affected, however the sale of it on its own will result in it being classified as residential.

- Roll-over relief in respect of entitlements to Single Payment Scheme payments will be preserved.

  In essence, this means that farming businesses can defer capital gains tax (CGT) where proceeds from the sale of the SPS entitlement are reinvested into new qualifying assets, such as plant and machinery.

- There was no change in the planned 3p fuel duty rise in August 2012.

  Rural businesses will lose out across the UK, not only as a direct consequence of their fuel consumption, but also as suppliers raise their prices to compensate for the falling margins.

- The Government has announced that the national minimum wage will rise by 11p to £6.19 an hour in October 2012. The rate for 18–20 year-olds will remain at £4.98 an hour and the rate for 16–17 year-olds will remain at £3.68 an hour.

- George Osborne announced the trial of an enterprise loan scheme for young people starting up their own business.

  This could potentially give people aged below 25 in the countryside the financial impetus to start their own businesses, boosting the agricultural sector in the long run.

CAPITAL ALLOWANCES AND AGRICULTURAL BUILDINGS

With the demise of the agricultural buildings allowance in previous years and the more recent fall in annual investment allowance from £100,000 to £25,000, farmers need to ensure that they are aware of other opportunities for tax relief on large capital expenditure.

Currently the first £25,000 of plant and machinery expenditure made in a trading year is eligible for 100% relief (the Annual Investment Allowance). Any amounts in excess of this attract the 18% writing down allowance which is calculated on the business's pool of assets.

For example, if in the year to 31st March 2013 a farmer spends £100,000 on a combine harvester, a total of £38,500 will be allowable as a deduction from the trade in that year alone (£25,000 at 100% + £75,000 at 18%). The remaining £61,500 will be carried forward to the next year for 18% relief year on year.

Given the allowance change at the beginning of April 2012, it is worth considering the timing of any large purchases if you have a year end falling in the next few months. For example, if you have a 30th June 2012 year end and you are considering purchasing a piece of machinery for £25,000, delaying the purchase until your new accounting year may provide more tax relief.

Making the purchase before 30th June 2012 year end: Only £6,250 will attract 100% relief, the remainder attracting 18%. Making the purchase after 30th June 2012: the full £25,000 will attract 100% relief against your 2013 profits, depending on your other asset purchases.

This is just one example of how simple tax planning and consulting with your accountant can result in savings.

Generally, expenditure on buildings is not deductible from the taxable trading profits and the farmer will have to wait until the subsequent sale of that building to obtain any kind of tax relief from the initial costs.

However some constructions are considered by HM Revenue and Customs to fall within the scope of plant and machinery and would therefore qualify for the favourable treatment above. Examples of these are:

- The alteration of land for the installation of plant and machinery. For example, ground preparation to provide a firm surface for a grain dryer
- Provision of temporary silos/storage tanks
- Cold stores, Slurry pits, Silage clamps
- Fish tanks and ponds (for fish farming only)

In most circumstances the treatment is not clear cut. The construction of a milking parlour is just one instance of where both building and machinery costs are incurred on the same project. Whereas most of the internal workings will qualify as plant and machinery and obtain allowances, the walls built to house the parlour will not. Therefore it is important that farmers are aware of the potential tax reliefs available and keep a complete breakdown of the costs incurred on large scale projects.

For more information on potential allowances available, please contact the agricultural team at Whitley Stimpson LLP.

AGRICULTURAL PROPERTY RELIEF
VICTORY FOR THE TAXPAYER!

Agricultural Property Relief has historically been a popular cause for HMRC vs. Taxpayer conflict and in the last couple of issues we have touched upon various court rulings in this area. We again revisit APR as another decision has recently come to light to again highlight this complex and uncertain relief.

This case centred on Mr. J. C. Hanson, who owned, by way of trust, a farmhouse and a minimal amount of surrounding farmland. The farm once comprised over 800 acres, however various transfers of the land left only a few remaining acres owned by Mr. Hanson. However, 128 acres of the original land, despite being transferred, were still farmed from the farmhouse.

On the death of Mr. Hanson, APR was claimed. HM Revenue and Customs disputed the validity of the claim and the case went to the First-tier Tribunal.

It was agreed by both parties that if the 128 acres were not taken into consideration, the amount of land would be insufficient to support the condition that the farmhouse was character appropriate to the farm and APR would not be permitted.

HMRC argued that the additional 128 acres should be disregarded as land was not owned alongside the farmhouse.

However, it was decided that it was irrelevant whether the owner of the farmhouse actually owned the adjoining land. It was simply enough that they occupied the land. The agricultural reality was that there was a farm of well over 128 acres being farmed from the farmhouse.

The farmhouse was therefore deemed to be character appropriate to the land being farmed and APR was allowed.

RURAL PAYMENTS NEWS

Permanent Pasture Concerns

The Rural Payments Agency has expressed concerns that the levels of permanent pasture in the UK are falling towards the minimum levels required by the EU.

There are fears that if this trend continues, the RPA may have to force farmers who have ploughed up permanent pasture in the prior 24 months to reinstate it.

The main worry for many farmers is that they will be required to maintain a high level of permanent pasture in order to qualify for the Greening Payment, which will constitute 30% of the total subsidy replacing the Single Payment Entitlements. This would effectively limit their cropping capacity in times of higher prices.

Cross Compliance Failures

Farm inspections last year revealed more than 2,000 breaches of cross compliance rules costing farmers and food producers over £2m in reductions to their direct payments.

The highest numbers of breaches were among cattle keepers for failing to report the deaths or movements of their animals. Across all agricultural sectors, but particularly for cattle and sheep farmers, failure to keep adequate records was another major cause.

However, there was a drop in repeated breaches and intentional non-compliance plus fewer breaches of animal welfare rules and regulations on agricultural nitrate pollution risk.

RPA advise that to avoid failing with the current year's application, all farmers should read their Guide to Cross Compliance in England 2012 booklet they will have received earlier this year.

PREVENT ILLEGAL WORKING

As the agricultural sector has a high level of non-UK national workers, employers must be are aware of their responsibilities in ensuring that the correct procedures are followed in hiring any worker to avoid becoming implicated in illegal employment.

As an employer you have a duty to prevent illegal working by carrying out document checks on people to make sure they have the right to work in the UK, before you employ them.

If you do not carry out these checks and you are found employing an illegal worker, you could be fined £10,000 for each illegal worker or face up to two years in prison.

To avoid a fine there are several steps you must take:

- Ask for and take copies of original, acceptable documents showing the holder is allowed to work before you employ them.
- Satisfy yourself that the documents presented are genuine and that the person presenting them is both the rightful holder and allowed to do the type of work you are offering
- If the person you go on to employ has a time limit on their stay – carry out repeat checks at least once every 12 months
- Copies of all documents obtained must be retained for at least two years after employment has ended.

UK Borders Agency has published detailed guidance and support on how to carry out the checks to prevent illegal working and avoid being fined. Further information can be found at **www.ukba.homeoffice.gov.uk**

VAT - WHAT YOU CAN AND CAN'T CLAIM

We thought it may be useful to provide a simple reminder about what input VAT you can and cannot reclaim on expenditure to ensure you are comfortable about the amount of VAT you reclaim on every return.

- The input VAT you do claim must be on expenditure which is for business use only. **No VAT** can be claimed on:

  - Expenditure on items used 100% privately.
  - Fuel in vehicles used for private purposes unless you use the fuel scale charge or calculate the proportion of business mileage and claim the VAT on that.
  - The purchase of cars unless there is 100% business use.
  - The hire element of leased cars where there is some personal use. (50% of this can be claimed, the other 50% is blocked).
  - Entertaining or gifts to your customers.

- **VAT can** however be claimed on:

  - The maintenance charge on a leased car where there is some personal use.
  - Entertainment or gifts to your employees.
  - VAT on vans and some classes of pickup vehicles.

Talk to someone who understands the real issues

Accounting for agriculture, farming and rural business is a specialist area that requires expertise and an understanding of the industry. Our dedicated team come from farming backgrounds and offer a clear understanding of the issues facing farmers.

We provide professional knowledge and hands-on experience in the agricultural sector. We have worked with agricultural businesses for over 80 years, providing the expert advice that is required to help you enhance the potential of your farming business.

Whitley Stimpson LLP

Banbury
T. +44 (0)1295 270200
E. info@whitleystimpson.co.uk

High Wycombe
T. +44 (0)1494 448122
E. hw@whitleystimpson.co.uk

ICAEW CHARTERED ACCOUNTANTS

Meet the Agricultural Team

Martin Anson
Agricultural Partner
martina@whitleystimpson.co.uk

Owen Kyffin
Tax Partner
owenk@whitleystimpson.co.uk

Ben Allman
Qualified Senior
bena@whitleystimpson.co.uk

Christine Copeman
Qualified Senior

Vicky French
Senior

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