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Agricutural Spotlight

This Agricultural Spotlight aims to enhance awareness of current issues and potential tax planning opportunities for all those involved within the agricultural sector.

Welcome to the first issue of Agricultural Spotlight which is designed to enhance the awareness of tax planning opportunities for all those involved within the agricultural sector.

June 2011

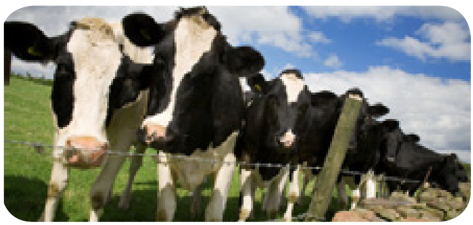
2011 BUDGET REPORT

There was little of major significance in the 2011 Budget report specifically related to agriculture; however some of the main points that may have a direct impact on the farming community were as follows:

CAPITAL GAINS TAX

An increase in the lifetime limit for Capital Gains Tax (CGT) Entrepreneur's Relief from £5m to £10m is welcomed especially given current farm land prices. This relief was restricted to £5m on disposals of qualifying gains made after 23rd June 2010. This latest change means the seller of a business after the 6th April 2011 worth over £10m will be an additional £900,000 better off.

This may give opportunities for farmers and farm businesses to consider selling their businesses in the near future to take advantage of the increased land prices and the increased Entrepreneurs' reliefs.



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PLANNING AND DEVELOPMENT

Many agricultural businesses are looking at diversification projects to support farming incomes, Gaining planning permission to convert buildings or erect new structures is normally part of the business development plan and actually obtaining planning can be an expensive and long process. The Government proposes to introduce a presumption in favour of sustainable development and a limit of 12 months for considering planning applications, including any appeals.

The Brownfield land targets are to be scrapped which will put Greenfield Development proposals onto a more equal footing.

In addition, the budget proposes to carry out a consultation process to try and simplify the planning process for converting commercial property to residential use. This may give opportunities to revisit development of buildings or businesses projects which previously were thought to have little chance of success.

GREEN INVESTMENT

Investors looking to invest in renewable energy sources may benefit from the Green Investment Bank which is to be increased in value to £3bn when it commences in 2012. In additional to this investors may be able to benefit from the Capital Allowances treatment of expenditure on plant and machinery that attracts additional Annual Investment Allowances.

Where the investment is made by any business in designated energy saving plant or equipment in accordance with the Governments Energy Technology Product list a 100% Annual Investment Allowances can be claimed.

The list of items that qualify can be found at www.eca.gov.uk . Professional advice needs to be taken before any such schemes are undertaken as to whether the items qualify or not as the current list is fairly restrictive.

FURNISHED HOLIDAY LETTINGS (FHL)

Following a consultation on the tax rules for FHL, it is proposed that the law will be changed by the Finance Bill 2011 so that:

- FHL in both the UK and European Economic Area (EEA) will be eligible as qualifying FHL within the (revised) special tax rules. This is the current situation but is not within current legislation
- the minimum period over which a qualifying property must be available for letting to the public in the relevant period is increased from 140 days to 210 days in a year with effect from April 2012
- the minimum period over which a qualifying property is actually let to the public in the relevant period is increased from 70 days to 105 days in a year with effect from April 2012
- losses made in a qualifying UK or EEA FHL business may only be set against income from the same UK or EEA FHL business (the existing rules allow set off against general income)
- a transition period will be introduced to allow businesses that do not continue to meet the 'actually let' requirement for one or two years to elect to continue to qualify throughout that period.

These new rules mean that fewer properties will qualify for the loss relief and for those properties that do meet the qualifying criteria the opportunities for utilizing the loss reliefs are significantly reduced. This could result in additional tax being due.

The 2011 budget announcement section was written after the Chancellor of the Exchequer's recent speech and is only intended to give an overview of the latest announcements that are most likely to affect you and your businesses. In some instances these are only proposals and are yet to have followed the legislative process. Professional advice must be taken in all instances.

SINGLE PAYMENT SCHEME AND CAPITAL GAINS TAX ROLL-OVER RELIEF

Assets chargeable to Capital Gains Tax (CGT) relief include rights such as entitlements to payments under the EU`s single payment scheme (SPS). Business asset roll-over relief defers CGT when proceeds from disposing of old qualifying assets are invested in new qualifying assets. Qualifying assets currently include SPS entitlements under a 2003 EU Directive. This directive was replaced in January 2009. The government will legislate to restore the availability of CGT roll-over relief for entitlements to payments under the SPS.

Where any post-January 2009 claims have been refused by HM Revenue and Customs, it should be possible to revisit those following the announced changes.

The government will include legislation within the 2012 Finance Bill to revise the list of qualifying assets in order to ensure that, whatever Directive they fall under, SPS entitlements continue to be eligible for roll-over relief.

MAKE THE MOST OF ANNUAL INVESTMENT ALLOWANCES WHILE YOU CAN

If your business is considering making a significant investment in plant and machinery over the next few years now is a good time to consider how best to utilise the capital allowances and in particular Annual Investment tax allowances that are currently available.

Currently each business has an annual allowance of £100,000. However the government have announced that this will be reduced from the current £100,000 to £25,000 per annum from 1st April 2012 (for companies) and from 6th April 2012 for sole traders and partnerships.

Given this potential significant reduction in allowances each business needs to carefully consider their capital requirements and, if at all possible, maximise the use of these allowances over the next year, thus ensuring that big ticket purchases are, where possible, fully deductible in the year of purchase.

Ensuring that these assets are invoiced and delivered before each year end is also important to ensure that the claim for allowances is bona fide. Given increasing lead times in ordering and delivery of specialist equipment do not leave it the last minute. This will need to be planned carefully.

No investment decisions should ever be made solely on the basis of saving tax, both commercial and financial factors should also be fully considered when making these decisions.

It is important to discuss your capital expenditure programmes with your professional advisor as soon as possible in order to decide firstly whether the assets qualify for the allowances and secondly whether any further action needs to taken.

ONLINE VAT RETURNS

From 1st April 2010 businesses that either have an annual turnover of £100,000 or more (exclusive of VAT); or registered for VAT on or after 1 April 2010 (regardless of turnover) are required to file their VAT returns on line and pay their VAT electronically.

Currently businesses do not have to submit their VAT returns online (and pay VAT electronically) if registered for VAT before 1st April 2010 and turnover stays below £100,000. The 2011 Budget put forward regulation, which will require all remaining VAT customers to file their VAT returns online and pay electronically for periods beginning on or after 1st April 2012.

Businesses that need to file their VAT return online will need to complete the online VAT return which is very similar to the paper version.

There has been no major change to the rules on how businesses complete their return or how the VAT is calculated.

Whitley Stimpson LLP are registered agents with H.M. Revenue and Customs and you may authorize us to submit the VAT return on your behalf. Alternatively the business can sign up for VAT online visit www.hmrc.gov.uk/vat/start/register/signuponline.htm.

INHERITANCE TAX PLANNING (IHT)

Effective IHT planning could save your beneficiaries significant sums of money depending on the size of your estate. IHT is currently paid on amounts above the nil rate band, or Inheritance Tax threshold, which is £325,000 (£650,000 for married couples and registered civil partnerships) for all tax years until 5th April 2015. If the value of your estate, including your home and certain cumulative gifts made in the previous seven years, exceeds the IHT threshold, tax will be due on the balance at 40 per cent.

Many farmers believe that the farmhouse, land and buildings will all automatically qualify for either Business Property Relief or Agricultural Property Relief. Where in the past this may have been so, H.M. Revenue and Customs are, via the courts, challenging many of the previously accepted principles. With successful challenge significant amounts of Inheritance Tax may become payable.

Key areas of attack are farmhouses and buildings that have been converted or not used in the main farming business. Problems arise where the farm has created additional sources of income (for example creating commercial letting space) which compromise the normal reliefs.

It is therefore essential that your Will is reviewed on a regular basis to ensure that it is both appropriate and takes into account any changes in circumstances or farming activities.

The easiest way to prevent unnecessary IHT is to organize your tax affairs by obtaining professional advice and having a valid Will in place to ensure that your legacy does not involve just leaving a large IHT bill for your loved ones. Given the reliefs and financial products available it is possible in most cases to significantly reduce this potential liability. Completing a property usage 'audit' in conjunction with having a valid Will assists this process.

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WHITLEY STIMPSON'S AGRICULTURAL TEAM

MARTIN ANSON FCA

Martin, Agricultural Partner at Whitley Stimpson, heads up the team. He is a local farmer's son who has developed a vast amount of knowledge and experience in all aspects of accounting, tax and succession planning together with the VAT implications of farming diversification that many farmers now undertake. The advice incorporates the requrement of many farms needing to update their energy requirements with the introduction of renewable energy systems.

Martin is fully aware of the needs of the local farming community and with the ever-changing demands on his clients. He is well placed to provide taxation and business planning advice.

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OWEN KYFFIN CTA

Owen did his initial training with HM Revenue and Customs before joining a large national firm based in Oxford. He became an Associate of the Chartered Institute of Taxation in 1992. During his 23 years working in tax, Owen has worked with many different types of client as well as working as a trainer and lecturer in the subject.

Owen has experienced all areas of taxation, including acting for a large number of farming and land based businesses, and has a particular interest in capital taxes.

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FURTHER INFORMATION

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