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FARMING UPDATE

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MEMBER FIRM ICAEW

EMPLOYED?

A recent case concerned the status of H, a sole director and shareholder of a company supplying engineering services, who did work for JCB.

The Judge found that H was a member of a team which consisted of employees and contractors; just because they were part of a team did not mean that they all had to have the same employment status.

Looking at the relationship between H and JCB the Judge noted the following, which indicated H was NOT an employee:-

- Contracts could be terminated before they were due to end with little or no notice and no payment in lieu.
- H had flexibility in hours (unlike the employees).
- H could continue working when the factory shut down for holidays.
- If the company's computers failed H had to go home unpaid.

This case is helpful when considering the role of self employed contractors on farms. When coming to arrangements with contractors be sure that they are not a sham. Risk has to be accepted on both sides. If the contractor is guaranteed work and thereby payment then the relationship will be regarded as employment. If the workers are held to be employees then HMRC can ask the employer for back payment of Tax and National Insurance over the past 6 years which can be very expensive.

If you want help to review the employment status of your workers before HMRC make enquiries, please contact us.

REAL TIME INFORMATION (RTI)

RTI is HM Revenue & Customs new reporting system for PAYE Schemes.

Instead of making one return each year at the end of the tax year (5 April), information will be reported to HM Revenue & Customs (HMRC) at the time of processing the payroll – either weekly, monthly or whenever you process a payroll.

The information will be transmitted to HMRC using the internet via the Government Gateway.

From April 2013 all employers will be required to make RTI returns.

From April 2013 all employers will become subject to RTI but there will be a transitional period of six months during which HMRC bring them into RTI. By October 2013 it is planned all employers will be subject to RTI and making RTI returns.

One major change you will notice with RTI is it will no longer be required to electronically file P45's or P46's when you take on a new worker or electronically file a P45 when someone leaves. It is important that you continue to file P45 and P46 forms electronically until the introduction of RTI because HMRC are now starting to impose penalties for P45's and P46's submitted on paper.

If you would like any more information on RTI or anything else to do with Payroll please contact us.

MY CAR IS 100% BUSINESS USE – 'NOT SO' SAYS HMRC

The taxpayer in a recent case claimed VAT in relation to the purchase of a motor vehicle and claimed this vehicle was solely for the purpose of his business. HMRC argued that it was not enough for the taxpayer to purchase it with the intent of using it entirely for business; for VAT purposes the car must not be "available for private use". This means there has to be a specific insurance or contractual restriction to prevent private use. VAT can be reclaimed if the vehicle is a tool of the trade e.g. for car hire business, driving school or taxi firm. In addition to the above

circumstances a genuine pool car that is not linked to any particular employee and not kept overnight at the home of an employee can also qualify for input VAT reclaims.

BUSINESS BORROWING – GET IT RIGHT

"Proprietors of businesses are entitled to withdraw their capital from the business, even though substitute funding then has to be provided by interest bearing loans". This quote comes from HMRC's Business Income Manual.

Understanding this allows a business owner to fund expenditure outside the business, with a business loan and retain the benefit of tax relief on the interest paid.

For example helping a child fund a deposit for a house. A gift of £30,000 could be funded by extending the business overdraft to withdraw money from the business (other partners willing in a partnership situation).

Care needs to be taken to ensure that capital accounts do not become overdrawn in which case the availability of relief for the interest will be restricted.

Practical considerations include:-

- The availability of bank funding. This cannot be overlooked in the current climate. Some banks are using requests for additional funds as excuses to "re-structure" business finance arrangements. This usually results in increased arrangement fees and a less attractive interest rate over the whole lending proposition rather than just the new borrowing.

- Cashflow considerations for making the capital repayments. Also what needs to be considered is the overall cost of the loan. The longer the repayment period the greater the interest cost.
- If you have any cash savings then the low rate of return means that utilising these savings is more cash efficient than taking on additional borrowings.

A similar approach can be used where the business concerned involves renting out a property rather than a trade.

MAKING A 'GREEN' PURCHASE?

If you're considering buying new equipment for your business, find out whether it is energy or water efficient. If it is, you could benefit from the Enhanced Capital Allowances scheme, which offers a 100% deduction for the cost in the year of purchase.

Check the list on www.eca.gov.uk to see if your purchase qualifies.

FURNISHED HOLIDAY LETTINGS ARE A BUSINESS (as anyone who manages such an enterprise will know)

No farming newsletter is complete without some mention of IHT. We want to tell you about a good news case in respect of furnished holiday lettings.

The case is called Pawson. The background is that Mrs Pawson had a holiday house on the Suffolk coast that was let out to relations as well as to members of the public as furnished holiday lettings.

HMRC's contention was that the administration of a furnished holiday letting was not sufficient activity to be considered to be a business and therefore business property relief (BPR) for inheritance tax (IHT) was not available. Even if it was sufficient enough to be a business they went on to contend it was an investment business and so still did not qualify.

The furnished holiday lettings had been let for the required number of days each year to qualify for furnished holiday lettings treatment for income tax purposes. The figures had been reported on Mrs Pawson's tax return.

HMRC argued that because some of the lettings had been to family members at a reduced rate this detracted from the recognition of it as a business.

The first Tier Tribunal found for Mrs Pawson's executors. They held it was a business and that taking into account the level of activity required to run holiday accommodation it could not be an investment business. Therefore relief was not available.

MAKING THE BEST OF SOLAR POWER

So you have your Photo Voltaic (PV) panels installed, you are registered to receive the feed in tariff and your meter shows how much power is being generated.

Unless you have a supply meter the assumption is that you will only use half of what is generated. It is on this basis that you will be paid for the electricity supplied – typically at 3p/unit. The art to maximising benefit from the PV System is to exactly match your power demands to the electricity generated.

This may require a re-think in your power usage. In the domestic situation; use household appliances during the day rather than overnight when no electricity is generated. Try to avoid spikes of power demand e.g. kettle on, cooker on and washing machine running all at once.

In the farm situation you need to review your daily schedule so use of electrical motors is programmed to periods when electricity is likely to be generated e.g. rolling corn in the middle of the day rather than at either end of the day. Build up ice banks, and program hot water systems to run during the day.

Careful analysis and costings of electricity usage will mean that greater benefits can be derived from the investment in PV than if no changes are made.

RURAL ECONOMY GRANT (REG)

A new competitive grant for rural business has been introduced; it has a £60 million budget and will provide grants of between £25,000 to £1 million to businesses demonstrating significant rural economic growth potential. The key criteria of a successful application will be the eligibility and capability of an applicant, the fit with theme priorities (see Applicant Handbook), value for money and the ability to raise match finance, implement etc.

The 6 themes are:

- **Farm Competiveness (3)** Nutrient management, Animal Health and Welfare or Water Resource Management.
- **Other (3)** Tourism, Forestry, or Agri-Food Technical.

The application process includes two stages:

Stage 1 - Provide an outline of your project, detailing how you anticipate it will fit with the overall aims of the appropriate theme, the need and demand for the investment, and benefits of your project. Defra have produced a comprehensive handbook and theme guides to assist with the application process.

Submit your outline application by 5.00pm on the 30th April 2012. (First application period – there will be other announced in due course)

Stage 2 - Full application stage, this involves a more in depth business plan, projections and quotations for all project costs.

Planning permission must be in place if required.

Please remember that the selection process for REG is competitive and applications will be appraised against one another. This means that there is no guarantee of success and not all projects which are eligible will necessarily be awarded a grant. However a well thought out submission could mean that your development plan can have that additional funding which may be the key to otherwise reluctant bank finance options. Careful analysis of the Defra criteria will be crucial, as will a well presented business plan. Please contact us for help with these.

For full details and access to the handbook and theme guides: http://rdpenetwork.defra.gov.uk/funding-sources/rural-economy-grant

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