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FARMING UPDATE

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SEMI-RETIREMENT - IS IT AN OPTION?

The story so far....

Fed up with the weather, the effects of TB on his beef herd, the mountain of paperwork and a general decline in his health Raymond decides to sell his beef herd. After all he reasons he is not getting any younger, the children are distinctly unenthusiastic about the prospect of coming home to help, let alone take on the farm, so why put in all the effort? He has neighbours who seem to be expanding and would be glad of his acres so he will not be without income. In due course he may sell up anyway and move to somewhere easier to manage.

He has chatted to his neighbours and they have offered the following solutions:

1) Put stock on his farm and use his buildings on an informal basis. Maybe grow some corn and take a cut or two of silage

2) Get the local auctioneers to draw up a grass keep agreement

3) A contracting agreement

Raymond wants to keep any tax bill on the sale of his farm to a minimum so ahead of any changes he goes to see his accountant, Charles.

At the meeting;

Charles – it's good you came before you made any changes as that gives us more options. Capital Gains Tax will arise on the sale of your farm. The rate will depend on your income in the year of the sale, either 18% or 28%. If you are eligible for Entrepreneurs Relief this reduces the rate to 10% on the first £10 million of gain.

Charles – to qualify you must sell assets used for the purpose of the trade within 3 years of the cessation of the trade.

Raymond – so if I do not know how long I am going to live at the farm after I have sold the herd, I need to keep trading so I can remain within the 3 year time frame.

Charles - yes, you need to have a well defined written agreement, with each parties responsibilities clearly documented, where the acts of husbandry are identified and left with you, so you can be identified as the farmer. Not only do you need both parties to sign the agreement, you also need to actually carry out the tasks, as HMRC will need to be satisfied it is not just a sham.

Raymond – so my income will still be subject to the financial risk of the farm operations failing and I will have to direct and control the contractors. That does not sound like much of a rest!

Charles – go and discuss it with your family, may be you would be best making plans to move within 3 years, otherwise there could be an extra 18% of tax on the sale of your property.

If you have any plans to retire in the near future please talk to us first.

FINANCE ACT 2013

Inheritance Tax

For inheritance tax calculations it will no longer be possible to take a charge on property A for the purposes of a loan on property B and expect that the liability will be deducted from the asset carrying the charge.

Example

If more farm land was being purchased and a loan was taken out charged against residential property, then up until now, on death, the value of the residential property in the IHT calculation would have been its market value minus the loan charged against it. From now on when doing the calculations the residential property will be chargeable in full and the amount of the loan will come off the value of the property, (the farm land in this example) it was taken out to finance. This new rule will reduce the reliefs available to a deceased estate.

TIP - With Funding for Lending offering some low cost borrowing opportunities this may be a good time to review your financing arrangements. Review your IHT planning to check the impact of this change.

National Insurance - £2,000 employment allowance

The Government will introduce an allowance of £2,000 per year for all businesses and charities to be offset against their employer Class 1 NIC liability from April 2014. The allowance will be claimed as part of the normal payroll process through Real Time Information (RTI).

The government calculates that every business will be able to employ one worker on a salary of £22,400 or four employees working full time on the adult National Minimum Wage without paying any employer NICs at all.

Inheritance Tax nil rate band

The IHT nil rate band was to remain frozen at £325,000 until 5 April 2015. The band will now stay at that level until 5 April 2018.

TIP - The freezing of the nil rate band will mean that even basic inflationary growth in the value of assets in an estate will increase IHT liabilities. Consideration should be given to making lifetime gifts to reduce liability.

Capital Gains Tax rates

The current rates of CGT are 18% to the extent that any income tax basic rate band is available and 28% thereafter. The rate for disposals qualifying for Entrepreneurs' Relief is 10% with a lifetime limit of £10 million for each individual.

Capital Gains Tax annual exemption

The CGT annual exemption is £10,900 for 2013/14 and will be increased to £11,000 for 2014/15 and £11,100 for 2015/16.

TIP – before the end of each tax year ensure that you have utilised this allowance especially if your stocks and shares carrying a capital gain.

IDEAS TO SAVE INHERITANCE TAX ON FURNISHED HOLIDAY LETS

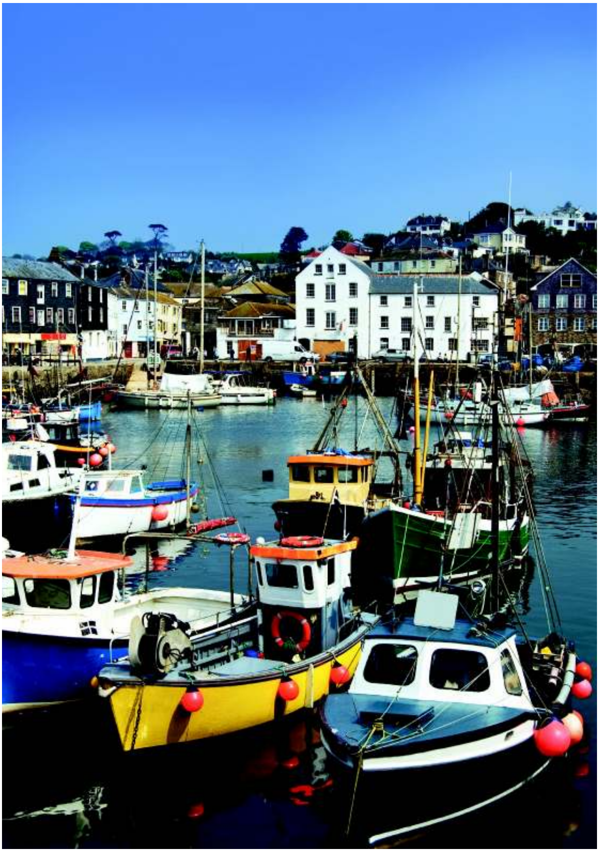
In the last few editions of this newsletter we have followed the case of the personal representatives of a family seeking to claim that holiday letting was a trade eligible for business property relief and therefore free from Inheritance Tax. The Upper Tribunal found for HMRC and regarded the activity as one of making or holding investments. Unless there are further appeals here are two alternative approaches to inheritance tax planning for furnished holiday letting properties.

1) Holiday lets on a farm could be regarded as part of the total farm business. The farm accounts should include the holiday letting income, and a stronger case can be made if one of the selling points of the cottage is that they are farm based. In these cases HMRC have to look at the whole (farming enterprises and holiday let together), and judge if the activities are "mainly the making or holding of investments".

The downside of this single business arrangement will be the need to include the holiday rental income in the VAT outputs. When compared to non VAT registered neighbouring properties the rent will either be 20% greater, or more likely the unified business will have to suffer lower returns than a business below the VAT threshold.

2) Transfer the FHL as a lifetime gift, making use of Capital Gains Tax hold-over relief and hope the donor will survive 7 years.

TIP – before you go ahead with any gifts or transfers consult your tax adviser to ensure you meet the eligibility criteria for any reliefs mentioned.



VAT AND RESIDENTIAL BUILDINGS

The construction of a new house is zero rated. A reduced rate of 5% is available for work done in converting a non-residential building (including a farm building) for use as a residence.

This reduced rate also applies for the conversion of residential buildings into a number of different units. The key to achieving the favourable VAT rates is to comply with VAT Notice 708 and fulfil the following requirements for a Single Household Dwelling which must be:

1) Designed for occupation by a single household either as a result of being originally constructed for that purpose, or as a result of adaption;

2) Consists of self contained living accommodation;

3) Has no provision for direct internal access to any other dwelling or part of a dwelling

4) Is not prohibited from separate use by the terms of any covenant, statutory planning consent or similar provision; and

5) Is not prohibited from separate disposal by the terms of any covenant, statutory planning consent or similar provision.

The first two points are relatively straightforward; the third precludes annexes and extensions but the fourth and fifth points can lead to practical problems. Careful scrutiny of the planning consent is needed to ensure that the correct rate of VAT applies to the construction costs.

TIP – agricultural occupancy conditions on their own do not lead to difficulties, but watch any additional clauses attached to the consent.

Remember to think about VAT issues when considering any plans to develop property. If you have queries contact us well in advance.

ANOTHER INHERITANCE TAX CASE FOR THE TAXPAYER – BUT HMRC MAY APPEAL

In the Hanson case the Tribunal had to decide if the farmhouse passed "the character appropriate" test in order to make it eligible for Agricultural Property Relief (APR). One of the principles to be considered was whether the house was proportionate in size and nature to the requirements of the farming activities conducted on the agricultural land or pasture in question.

APR is a relief that requires occupation for the purposes of agriculture. The Tribunal decided that the character appropriate test would be better answered by reference to the land in the same occupation as the farmhouse.

Rather than just considering the land owned by the deceased the tribunal considered the area of land that was in the same occupation as the farmhouse without necessarily being in the same ownership. The land occupied by the resident of the farmhouse land ran to some 215 acres while the owned land only amounted to 61 acres.

Following this case landlords may be interested in establishing what additional land is farmed by their tenants if questions arise about the character of the farmhouse.

AGRICULTURAL TECHNOLOGIES STRATEGY – JULY 2013

The government have launched a new strategy, developed with scientists and the food and farming industry and backed it with £160 million. It is hoped that the proposed Centres of Agricultural Innovation will help drive knowledge to those working in the industry. Follow this link to download the full document: https://www.gov.uk/government/publications/uk-agricultural-technologies-strategy

CAP ON UNLIMITED TAX RELIEFS

With effect from 6 April 2013, taxpayers seeking to obtain more than £50,000 of previously unlimited Income Tax reliefs in any one year will find their deductions capped at the greater of:

1) 25% of their total income; or

2) £50,000

The most common relief affected will be trading losses so careful consideration will need to be given to the taxpayer's affairs as a whole to ensure relief for any loss is maximised. The timing of any large items of expenditure which may give rise to a trading loss will need to be considered. This is especially so in relation to purchases of plant and machinery as we currently have an increased Annual Investment Allowance of £250K.

Hopefully farm incomes will hold up, but the silver lining of big tax rebates in poor years may be tarnished for some by this restriction.

The restriction also covers relief claimed for interest on loans taken out to invest in a company or partnership in which the individual works. Any interest that cannot be relieved due to the restriction will be lost.

The cap will not apply to SEIS, EIS, VCT, pension contribution reliefs, or charitable donations.

Please contact us if you have any queries about these restrictions.

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