Whitings Chartered Accountants LLP

Farming Group Newsletter

Over And Out

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This will be the final Agricultural Newsletter produced during my tenure as Chair of our Farming Group and it would not be right if taxation was not considered in at least one contribution. Mike Blackledge provides for this with a review of the consequences of multiple rates of Corporation Tax where Companies are associated.

Over the previous issues of the Farming Group Newsletter the effect of regulation has been a frequent topic. Once again this produces subject matter, with contributions from Stephen Malkin on the 'Trust Registration Service' and Steven Denton on 'Auto-Enrolment Pensions'. We may have imagined that the existence of a registerable trust would be easy to identify but the inclusion of non-taxable trusts in the registration requirements provides a banana skin and a potential penalty of £5000 for getting things wrong, a hard landing. As for auto-enrolment it seems to me that the only thing that's automatic is the opportunity to apply the rules incorrectly.

Louise Bassett also addresses regulation but her comments on the Sustainable Farming Incentive and Biodiversity Net Gain (BNG) offer prospects for additional sources of income for farmers who elect to embrace the rule books.

I have commented on the 'Evolving Market Arrangements' for agricultural produce and the trend towards prescriptive requirements from customers. The ability to trace produce along the supply chain makes the retailers' promises, the farmers' challenge.

Finally, I come to Chris Ridgeon's observations on the issues of 'Divorce For A Farming Family'. Inevitably we accountants focus on the financials but there is a nod to the emotional context behind these. Nevertheless capital values inherent in agriculture throw up challenges not faced by less asset-rich couples.

I hope you find our Newsletter interesting. I have enjoyed my role in the production of this and the previous issues and I trust that Louise Bassett who succeeds me as Chair of the Whitings LLP Farming Group will bring fresh ideas to future issues.

James Cater

Farming And Corporation Tax Issues

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Farming and Taxation go hand in hand, with the ever changing outlook in terms of what the future will bring, and harking back fondly to previous years.

For Corporation Tax purposes the Finance Act 2023 brought back into focus the introduction of not only a main rate of tax at 25% from 1 April 2023, but also a lower rate of 19%. This means that there is the return to a marginal rate for profits arising between £50,000 and £250,000 in an accounting period of 12 months. This has resulted in a much greater focus on "associated companies", given that this will reduce the limits as mentioned above, and where it does, bring more companies into paying either marginal or the main rate of corporation tax.

A company is an associated company of another if at any time one of the two has control of the other or both are under the control of the same person or persons, even if this is for only part of the accounting period. A person(s) can include relatives, partners in a partnership, trustees of a trust or personal representatives.

There are exemptions to consider, and these include ignoring companies that have not carried on a trade or business at any time in the accounting period. This will include dormant companies and non-trading holding companies.

All of the above will then have an effect upon when the company may be required to pay its Corporation Tax liability, whether this is 9 months after the accounting period or whether there is a requirement for quarterly instalment payments, which start 6 months after the end of the accounting period and then continue on. Care is required with companies that have fluctuating profits, as they will be required to adjust their required payments.

This is a complex area of taxation, and I would suggest that if you have any queries then please contact your normal manager, associate or partner to discuss matters further.

The Trust Registration Service (TRS)

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The TRS was originally first set up in 2017. Trustees were required to register if their trust was liable to pay any of Income Tax, Capital Gains Tax, Inheritance Tax and Stamp Duty Land Tax. Then in 2020 new rules were introduced that extended the scope to include UK and some Non UK trusts regardless whether the trust was liable for tax.

To ensure the best position regarding Business Property Relief (BPR) for Inheritance Tax many farmers have introduced freehold property they held personally into their partnerships by way of a separate land capital account to secure 100% BPR.

For land that is in a partnership, you need to be aware that If the land registry holders of the land are different to the partners in the partnership, then there is usually a trust, and this should be registered.

The deadline for registering these trusts was 1 September 2022 but H M Revenue and Customs (HMRC) are taking a light-handed approach as they recognise that trustees may not be familiar with the process. HMRC have stated that they will not charge a penalty as long as it was not deliberate behaviour not to register and you take action to correct within time limits if you receive their nudge letter.

The penalty for failing to register is £5000 and HMRC will decide whether to charge penalties on a case-by-case basis.

Once the trust is registered the details need to be kept up to date as there is potential for penalties to be issued if they are not. Please contact your local Whitings LLP office if you require further details.

Auto-Enrolment Pensions

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No matter what trade you are in, once you take on an employee you need an approved auto-enrolment pension scheme in place. There are various pension schemes available and research is advised. The government backed NEST scheme is possibly the easiest to access and use. When an employee is enrolled into the pension scheme the employer is legally bound to contribute the minimum to the scheme.

Currently, contribution rates are 5% employee and 3% employer on banded pay (Banded pay currently stands on earnings between £520-£4,189 per month £120 – £966.69 per week) or 5% employee and 4% employers calculated on Gross earnings (including commission and bonuses).

All employees aged between 22 and state retirement age earning over £10,000 per annum will automatically need to be enrolled into the pension scheme. However there are plans for this to reduce to age 18 and you to need to be enrolled from the first £1 you earn.

Currently, employees aged between 16 and State pension age earning above £6,240 but below £10,000 per annum must be issued a letter giving them the option to enrol; if they do the employer contributions start.

Employees earning below the £6,240 must be issued a letter giving them the option to enrol, but the employer only pays contributions when they reach £6,240 per annum.

Employers can make use of the 3-month postponement by delaying new starters joining the scheme. If the employee asks to be enrolled early, they can, and the employers must make contributions.

Are You Scheming For A Better Environment?

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With increasing Sustainable Farming Incentive (SFI) standards now available, it's encouraging to see that these have been easily laid out in the 2023 handbook. Not only does the document detail the annual payments and types of lands that can be entered, it also details other SFI standards and environmental schemes (such as Countryside Stewardship and CS capital grants) which can be used in conjunction with any given standard.

Looking specifically at standard SAM2 (Multi-species winter cover) if all other available SFI actions are undertaken on the same piece of land the landowner can expect to receive roughly £100 per hectare over and above the 2020 BPS receipt.

Given that these standards have the added benefit of improving the environment (better soils = better crops, increased pollinators = better food security) that can only be a good thing for both landowners and the general public.

We also now have Biodiversity Net Gain (BNG) to contend with which comes into force in the new year. In a nutshell, it requires developers to improve the local environment by leaving it 10% more biodiverse than when they started. This can be on-site by the developers themselves, off-site locally by agreements with landowners, or by buying credits from a national pool. This could provide a big opportunity for many landowners.

The big downside, however, is the minimum agreement period is 30 years - a long time to lock away a piece of land, potentially spanning two farming generations. Any requests for agreements should be considered carefully. The wording will be paramount in determining whether the land can still be farmed, and whether the receipt(s) from the agreement should be treated as income or capital for tax purposes.

One thing is clear, these environmental schemes and laws are not going away. Are you going to bury your head in the sand or embrace the change?

Evolving Market Arrangements

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Over the course of my career I have seen the restructuring of most of the pig industry from farmers owning their herds to the owners of pig buildings renting these to processors while charging for supplying the pig husbandry. While this has provided stability to the 'farmers' it has changed the business model.

Traditional marketplaces have changed; it could be argued that for many commodities the number of customers is so reduced that market competition is threatened. Supply contracts for huge quantities make the grower vulnerable because there may be no other feasible outlet were they to decline to accept the following year's terms. The existence of an ombudsman may sound better than it tastes. It has recently been announced that Morrisons have launched a new trial in the potato and carrot sectors to cover growers' costs. This is said to help growers mitigate cost and weather pressures arising from the peaks and troughs of the season.

Waitrose have advertised widely based, not like Tesco on matching the price of another supermarket, but on what may be summarised as the integrity of their products, including animal welfare and treatment of suppliers.

Increasingly customers are determining the standards under which produce is grown, your business is becoming their business. The position with pig rearing is clear; are we approaching the day when some arable 'farmers' will in fact be contractors growing crops owned by their 'customers'? If so, would that necessarily be a change for the worse?

Divorce For A Farming Family

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Divorce can be a complicated, stressful and emotional process for those involved, even more so when a farming entity is involved. Ownership structures complicate matters and make the split of the farm difficult. Farms can be more complicated than other non-farming assets.

Farms are often passed down or inherited and can often be owned by various members of a family so other family members may have an interest in the farm. Any impact on family members involved or living in farm properties will be considered. There may be complicated ownership structures such as other shareholders or Trusts, plus the impact farm tenancies may have. Many farmers will want the asset of the farm to be retained for future generations so will want to protect the assets and its income generation.

The sale of the farm may not be easy and whilst consideration can be given to a sale of part of the farm, you will have to be certain what is left will still be a viable farming enterprise.
With potential for such complicated assets and structures, it is crucial to instruct advisors that are experienced in dealing with farming divorces and who have an understanding of agriculture and farming families.

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