

RECENT ANNOUNCEMENTS AFFECTING FARMERS

Most of the changes affecting farmers which were made in the so-called 'two penny Budget' have now been clarified following the publication of the draft legislation. The new measures create problems and opportunities alike for farmers. This update highlights some of the issues facing farmers and gives Dixon Wilson's 'two-pennies' worth.....'

SIDEWAYS LOSS RELIEF

Many farms are owned and operated through family partnerships. Where tax losses are available from the farming operation, partners are used to offsetting their share of the losses against other sources of income, and capital gains, thereby reducing their overall personal tax liability. This loss relief is often referred to as 'sideways loss relief'.

The rules that govern the amount of loss which can be utilised in this way were changed on 2 March 2007, and were effective from that date. The changes affect only individuals acting as partners; corporate partners, and trustees in partnership are unaffected.

Previously the amount of partnership losses which could be offset was only limited by the amount of capital which individuals had contributed to the business. The new rules are not specifically targeted towards farming partnerships but they may significantly restrict the amount of sideways loss relief which can be claimed by farmers in the future.

Under the new rules the ability to set partnership losses against other income and gains is restricted if a partner is not actively involved in the farming business. Partners need to spend an average of 10 hours a week on the partnership's affairs.

Loss relief for non-active partners will be restricted to the lower of:

- ▶ the amount of capital contributed; and
- ▶ £25,000

Any excess loss that is not used in this way is not lost but carried forward to be used against partnership trading profits in the future.

Partners who are actively involved in the business will be able to continue to claim relief for losses up to a maximum of their capital contribution to the business.

In some cases it will be worth reviewing partnership agreements and profit and loss sharing ratios to ensure that losses are allocated in the most favourable ways to maximise relief. Individuals who are active partners in more than one partnership may also need to review their structures as the annual limits set out above will be applied to the aggregate of all their partnership interests.

AGRICULTURAL BUILDINGS ALLOWANCES (ABAs)

The system of tax allowances for agricultural buildings has been in place for many years. Farmers and landlords have been able to claim ABAs at the annual rate of 4% of the cost of buildings, and other structures, used for the purposes of agriculture. The Chancellor announced in the Budget the phased withdrawal of ABAs over the next few years, starting on 6 April 2008 with final withdrawal by 5 April 2011.

With effect from 21 March 2007 balancing allowances and charges have been withdrawn, which has prevented farmers from reorganising their affairs now to accelerate ABA claims.

The rate at which ABAs can be claimed in 2008/09 will be reduced from 4% to 3%, with further reductions in 2009/10 (2%) and 2010/11 (1%). Any unrelieved balance remaining at 5 April 2011 will be lost completely.

CAPITAL ALLOWANCES FOR PLANT AND MACHINERY

The Budget introduced a number of changes to capital allowances, with some good news and some bad:

- ▶ A new 'annual investment allowance' for the first £50,000 of expenditure on plant and machinery will be introduced from 6 April 2008. The details of this scheme are not yet clear and will be subject to consultation, but it is anticipated that 100% relief will be given on the qualifying expenditure in the year of acquisition.
- ▶ The temporary increase in first year allowances to 50% for the year ending 5 April 2007 has been extended until 5 April 2008.

► Currently most plant and machinery attracts a 25% tax allowance each year. From 6 April 2008, the annual allowance is being reduced to 20%. This change means that it may be more beneficial to consider whether assets can be classed as 'short life assets' so that balancing allowances can be claimed at the end of each asset's useful life. The main test to satisfy for assets to be treated in this way is for the useful life to be less than 5 years. Purchases of computers or technology equipment are the most obvious examples of qualifying expenditure.

► From 6 April 2008, the annual allowance for long life assets will be increased from 6% to 10%. Plant is treated as long life assets where it has a useful life of 25 years or more, and, in some cases, where the expenditure on the asset is £100,000 or more.

HM Revenue & Customs have previously attempted to argue that some irrigation installations should be treated as long life assets. Whilst this contention can usually be defeated, it seems less likely that tax inspectors will attempt to classify expenditure as long life assets as the rate of tax relief is now much closer to the rate available on most other assets.

► A new category of capital allowances has been introduced from 6 April 2008 for fixtures integral to buildings. Relief will be given at the rate of 10% per year. The types of expenditure which qualify have not been announced, and are subject to consultation, however it is likely that some items which previously qualified for the annual tax allowances at 25% will now fall into this less favourable category.

LOOKING AHEAD

Although many of these imminent changes are still in the consultation stage farmers should be aware of the pitfalls and opportunities presented now, so that appropriate action can be taken.

This update is for information only and does not constitute professional advice. For advice on your particular circumstances or for further information, advice or assistance in relation to any matters raised above, please contact the author or your usual Dixon Wilson partner.

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