Farming

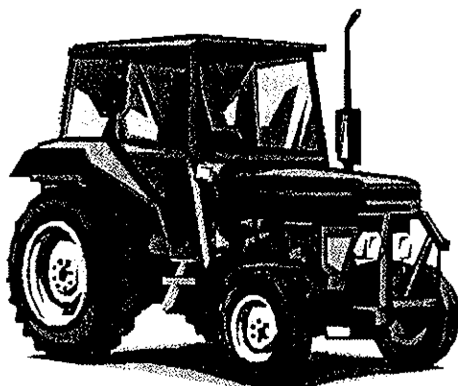
147. CGT planning for farmers

The future tax treatment of UK farming quotas is an issue that it causing considerable interest at the moment. There is speculation that quotas may be abolished, which will have important financial and tax consequences. Pressure is growing to allow quotas to be tax deductable, for example the Irish tax authorities are allowing some writing off of quotas against income tax profits. So far, no changes are preposed to the UK tax treatment, despite intensive lobbying by the National Farmers' Union.

It is worth considering what action should be taken if quotas were to be removed, particularly from the capital gains tax point of view. The quotas would have no value and therefore it would be prudent for UK tax advisers to claim a capital loss under the negligible loss claim rules at the earliest convenient point. Such a loss would be able to be carried forward and used against future capital gains. This obviously has some distinct advantages and disadvantages. Firstly, as any loss brought forward has to be set against a gross gain that is then subject to taper relief, losses brought forward are obviously reduced by taper relief. As with any other business it is imperative to plan the losses brought forward to try and ensure that they can be utilised against non-business assets first.

A recent report of the ICAEW Farming Group on UK farms revealed that throughout the UK there is a fall in profits and an erosion of capital. Even worse, 40 per cent of those surveyed had no succession planning in place. The farming industry is subject to major upheavals and the statistics show that many farmers are leaving. The Farming Group survey revealed that only one quarter of farms surveyed had managed to diversify and only a small fraction of that number had done so to any significant extent. This leads many farmers having to make disposals in order to survive. Thus capital gains tax planning for the farming and land-owning community has never been more relevant. Now is the time for tax advisers with farming clients to consider urgently the following questions:

- Is it worth taking advantage of retirement relief?
- How rollover and taper relief interact and whether it will be possible to claim 75 per cent taper relief from 6 April 2002?
- What moves should be taken to protect the farm house and other assets in relation to future inheritance tax claims?



Many landowners and farmers do have losses brought forward from other previous disposals somewhere in the past and it will be very important to ensure that these are used efficiently. These losses might relate to land and asset losses in recent years or failed diversification projects.

With all professionals being told to double-check all business taper relief advice due to the complications and the concerns as to whether or not an asset qualifies as a business asset, will be an all-important time for both planners and clients to work together. For those farming clients trading through a limited company, classification of a trading company is also very relevant as it is very easy for such companies to build up assets which count as investments and a review of the trading status of farming companies will also be needed.

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Pensions

148. Immediate vesting

An individual aged over 50 (for example, a non-working spouse) could contribute £3,333 (gross) to a stakeholder pension arrangement for immediate vesting. This will provide tax-free cash of £833 (being the 25 per cent lump sum) and leave the fund balance of £2,500, which would normally be used to provide a pension. However, regulations allow sums up to this amount to be treated as trivial and to be paid to the member as a further tax-free lump sum. In other words, the contribution is returned together with the basic rate tax relief as a tax-free lump sum. There are certain rules in the legislation to prevent abuse.

Contributed by Grant Thornton

VAT and Duties

149. Urban regeneration interplay

The rules found in the Finance Act 2001 affecting urban regeneration have both a VAT and capital allowances angle. But can VAT relief apply to properties attracting the 100 per cent capital allowances? In my view they can.

The direct tax relief for expenditure on converting parts of business premises into flats was introduced by section 67 and Schedule 19 to the Finance Act 2001. The direct tax measures provide capital allowances for the conversion of flats above shops which have been unused as dwellings for at least one year. To the extent that the work is refurbishment of dwellings empty for at least three years or which qualifies under the residential conversion rules, the developer will obtain the benefit of reduced rate VAT on the work carried out in addition to the capital allowances provided for in the direct tax legislation. The direct tax legislation has a number of other qualifying criteria, however, and in some cases the VAT reduced rate will not apply. Both areas of law will need to be considered separately.