

# Don't be Shot in the Foot!

*Julie Butler warns of increased enquiries into game shooting*

**B**ird 'flu is not the only problem facing the world of commercial shooting. Game shooting, which is often integrated into farming activities, has become a prosperous and thriving rural industry over the last few years. The sport provides healthy employment in rural environments, including very remote outposts of the British Isles.

Many farms and landed estates combine the sport of shooting into their agricultural enterprises and the 'selling off' of days shooting to the outside world can provide lucrative income. But the activity is currently suffering various areas of 'tax attack' or further scrutiny. For example, the payroll compliance department appears to be focusing on issues such as:

Tips paid to the gamekeeper(s). These should be declared and subject to income tax (PAYE).

Gamekeepers' taxable benefits-in-kind – for example, the question of whether the vehicle provided is also used for private journeys and is therefore a benefit-in-kind. The 'tax free' status of the gamekeeper's cottage. Where is the vehicle kept?

Beaters – all names should be kept and the correct PAYE treatment applied. This could also cause problems with claims for Tax Credits, unemployment benefit, etc.

Some shoots are purely private, although this is quite a luxury. Where there are no days sold to the outside world, then the costs that genuinely relate to vermin control or conservation are allowable, but otherwise it will be necessary to disallow a proportion of:

- Gamekeepers' wages and benefits-in-kind
- Refreshments for shoot lunches
- Beaters' wages and tips
- The cost of rearing birds

The VAT implications are receiving the most attention. Are 'sold' days subject to the correct output VAT? If there is private use (days retained for the family), is the appropriate input VAT disallowed or output VAT charged?

More long-term problems on Capital Gains Tax and Inheritance Tax could arise on the possible private use of assets. For those conversant with the running of a game shoot, it will be understood that the activity of shooting is integrated into the activity of farming. Most of the shooting activity will take place in woodland (for the rearing and 'housing'). The woodland is also used to provide timber for use on the farm.

The taxation of woodland does of course have interesting tax considerations. Long-term woodland does not currently qualify for Business Asset Taper Relief (BATR) for Capital Gains Tax (CGT) but woodland can be an exempt asset for Inheritance Tax (IHT). However, the use of 'game strips', ancillary woodlands and hedgerows does raise possible complex issues for CGT and IHT and the identification of areas of 'mixed' use should be highlighted.

If the income from the sale of days shooting is declared in the accounts of the farm or landed estate, there are much

stronger arguments for no private use to be charged, provided that it can be demonstrated that this is a commercial activity and there is an add-back for private use in relation to the number of private days or private guns on the commercial shoot.

The taxation of the shoot is something that many tax advisers (farm account preparers) ignore, sometimes through not knowing all the facts, because clients are deliberately keeping information away from the advisers. For example, is part of the arable production used to feed the birds? If so, is the correct private use recorded in the accounts?

For those advisers who do not understand the organisation and running of a game shoot, it could be very difficult to ensure that the correct questions are asked. But these queries must be raised. The key must be to warn clients and to look at solutions before the enquiry 'hits' the client. The notes must be on the file and consideration must be given to the points raised. Can the activity show commerciality or will this again be deemed to be private or for there to be a high proportion of private use? (See *Commissioners of Customs & Excise v Lord Fisher* [1981] STC 238.)

In April 2006 HM Revenue and Customs (the Shoot Project Team at Norwich VAT Office) issued a letter to the shooting authorities to say that they are looking closely at commercial shoots which consider themselves outside the scope of tax. HMRC are trying to bring shoots firmly within the scope of tax and to register them for VAT. Clients should receive a visit in the next year.

## Action plan for accountants and advisers

So what action can the farm tax adviser/accountant take?

Obtain the facts. Ask every farming client what the shooting arrangements are on the farm and keep a copy of the answer on the permanent file. Update it regularly.

On the farm maps which are held on the permanent file, note areas of woodland that are used for game rearing and also note other areas of woodland and what they are used for.

When the annual books and records are received, ask what private shooting there has been and what the impact on the VAT Return has been.

When the annual accounts **and income tax computation** based thereon are sent to the client, note any private usage for the shooting activity **in writing** and ask the client to confirm not only that this is right, but that it accords with the VAT treatment.

From the adviser's point of view, it's about risk management. If a client were to undergo a payroll, VAT or tax return enquiry which unearthed irregularities with the farm shoot, the adviser would have greater protection against potential claims if warnings had been given.

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