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Farmers and income tax relief on medical expenses

Farming is a notoriously dangerous industry with a high level of fatalities and injuries. The operator needs to be alert and fit for all levels of farm machinery. In a large number of situations the person using the farm machinery is self employed, either as a contractor, a sole trader farmer or in a farming partnership. A requirement for farm insurance, etc, can be the ability to show fitness to use the machinery. In a recent tax case *Parsons* (TC421) it was ruled that medical expenses were allowable for income tax relief as the object of the expense was for the business.

It is worth looking at the detail of the case to see how it relates to farming.

Mr David S Parsons (TC421)

Mr Parsons had been a stunt performer and a 'double' in film and television productions for about 12 years. This vocation can be a dangerous business – involving car crashes, falls, fractured bones, dislocated joints and broken teeth. HMRC had disallowed various expenses that Mr Parsons had claimed in respect of 'medical expenses', 'health and fitness', 'chiropractor' and 'dentist' for the years ended 5 April 2003, 2004, 2005 and 2006. HMRC considered that these expenses did not fall within TA 1988, s 74, ie, that they had not been 'wholly and exclusively laid out or expended for the purposes of the trade or profession'. How important to farming is the ability to claim medical expenses as allowable for income tax?

In particular, the 'medical expenses' claimed by Mr Parsons related to a knee operation following an injury while performing a stunt. Mr Parsons could have waited to have the operation by the NHS, but he would have waited for a year. He resumed fitness training and tried to continue stunt work, but his knee had collapsed when lifting another actor. As Mr Parsons was not able to perform to the standard required for his work, and to enable him to continue working, he paid to have the operation performed privately. Mr Parsons

argued that if he had a less physically demanding job he would have waited as he would have been able to carry on working in the meantime and therefore the medical expenses were a tax allowable cost. The parallel is that farming is physically demanding.

Parsons argued that the chiropractor costs related to a back injury sustained while working on another film. Again, when not working Mr Parsons does not require the services of a chiropractor, but performing stunts causes his back to 'knot up' and he then needs chiropractic work on a daily basis, which is not provided by the NHS. Similarly, the services of a masseur were required daily while working. On some productions these are provided, but Mr Parsons pays for the cost when they are not provided. The dental expenses were incurred to repair teeth that had been damaged or chipped in performances, not for other dental work. Because he also worked as a double Mr Parsons needed good teeth for this work. These health and fitness expenses did not achieve tax allowance.

HMRC's arguments to disallow the medical expenses were to refer to *Norman v Golder* 26 TC 293 (where the medical expenses of a self-employed shorthand writer were disallowed) and *Prince v Mapp* 46 TC 169 (likewise for a guitarist). HMRC argued that the costs of surgery were not eligible because the restoration of health is not a business purpose.

HMRC argued that the operation could have been provided by the NHS, but Mr Parsons argued there was a one year wait. The taxpayer won the claim for the operation as tax allowable, but not the health and safety expenses. However, HMRC say this mustn't be used as a precedent they will look at such claims on a case to case basis.

It would appear that when an injury is incurred as a result of farming work carried out in a self employed capacity (partner of a farm) then the cost of repair can be claimed as a tax allowable expense provided it reaches the correct conditions of being able to prove the object of the expense was business.

Action plan for farmers

Ask your tax adviser about such expenses and look at previous expenses of a similar nature to see if a claim can be made for tax relief on these expenses. For future claims for medical expenses make sure that the evidence supports the claim. There is scope to claim tax relief for medical expenses incurred by farmers and this opportunity must be utilised. Previous years' medical expenses could also be considered.

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